

-P

Jul Biv
Don McFarland - Santisteban Johnson

By McFarland

SJR 11

A JOINT RESOLUTION

proposing a constitutional amendment to authorize the exemption from ad valorem taxation certain personal property temporarily in the state for certain purposes.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. That Article VIII, Section 1, of the Texas Constitution is amended to read as follows:

Sec. 1. (a) Taxation shall be equal and uniform.

(b) All real property and tangible personal property in this State, unless exempt as required or permitted by this Constitution, whether owned by natural persons or corporations, other than municipal, shall be taxed in proportion to its value, which shall be ascertained as may be provided by law.

(c) The Legislature may provide for the taxation of intangible property and may also impose occupation taxes, both upon natural persons and upon corporations, other than municipal, doing any business in this State. It may also tax incomes of both natural persons and corporations other than municipal, except that persons engaged in mechanical and agricultural pursuits shall never be required to pay an occupation tax.

(d) The Legislature by general law shall exempt from ad valorem taxation household goods not held or used for the production of income and personal effects not held or used for

1 the production of income. The Legislature by general law may
2 exempt from ad valorem taxation:

3 (1) all or part of the personal property homestead of a
4 family or single adult, "personal property homestead"
5 meaning that personal property exempt by law from forced
6 sale for debt; and

7 (2) subject to Subsection (e) of this section, all other
8 tangible personal property, except structures which are
9 personal property and are used or occupied as residential
10 dwellings and except property held or used for the
11 production of income.

12 (e) The governing body of a political subdivision may
13 provide for the taxation of all property exempt under a law
14 adopted under Subdivision (2) of Subsection (d) of this section
15 and not exempt from ad valorem taxation by any other law.

16 ~~(f)~~[(h)] The occupation tax levied by any county, city or
17 town for any year on persons or corporations pursuing any
18 profession or business, shall not exceed one half of the tax
19 levied by the State for the same period on such profession or
20 business.

21 SECTION 2. Article VIII of the Texas Constitution is
22 amended by adding a Section 1-j to read as follows:

23 Sec. 1-j (a) To promote economic development in the
24 state, tangible personal property consisting of goods, wares,
25 merchandise or ores, other than oil, natural gas, and petroleum
26 products, is exempt from ad valorem taxation if:

27 (1) the property is transported from outside this

1 state into this State to be forwarded outside this State,
2 whether or not the intention to forward the property outside
3 this State is formed, or the destination to which the property
4 is forwarded is specified when the transportation of the
5 property into this state begins;

6 (2) the property is detained in this State for
7 assembling, storing, manufacturing, processing or fabrication
8 purposes;

9 and

10 (3) the property is not located or retained in this
11 state for more than 175 days.

12 (b) Tangible personal property exempted from taxation in
13 subsection (a) of this section is subject to the following:

14 (1) A county, common or independent school district
15 or municipality, including a home-rule city, may only tax such
16 property otherwise exempt, if the governing body of the county,
17 common or independent school district or municipality takes
18 official action as provided in this section and in the manner
19 provided by law to provide for the taxation of such property.

20 (2) Any official action to tax such exempt property
21 must be taken before April 1, 1990. If official action is
22 taken to tax such exempt property before January 1, 1990, such
23 property is taxable effective for the tax year 1990. However,
24 if such official action to tax such exempt property is taken
25 prior to April 1, 1990, but after January 1, 1990, the official
26 action shall not become effective to tax such property until
27 the 1991 tax year.

1 (3) Any of the above named political subdivisions
2 shall have the authority to exempt from payment of taxation
3 such property located in such above named political
4 subdivisions for the taxing year 1989. If a governing body
5 exempts the property from 1989 taxes, the governing body shall
6 waive 1989 taxes already imposed and refund 1989 taxes already
7 paid on such property for that year.

8 (4) The governing body of a county, common or independent
9 school district, or municipality that acts under (b)(2) of this
10 section to tax the property otherwise exempt by subsection (a)
11 of this section may subsequently exempt the property from
12 taxation by rescinding its action to tax the property. The
13 exemption applies to each tax year that begins after the date
14 the action is taken and applies to the tax year in which the
15 action is taken if the governing body so provides. A governing
16 body that rescinds its action to tax the property may not take
17 action to tax such property after the rescission.

18 SECTION 3. This proposed constitutional amendment shall be
19 submitted to the voters at an election to be held on November
20 7, 1989. The ballot shall be printed to provide for voting for
21 or against the proposition. "The constitutional amendment
22 promoting economic development and comparable tax treatment for
23 Texans who do business in other states and nations by exempting
24 from ad valorem taxation personal property that is in Texas
25 only temporarily for the purpose of assembling, storing,
26 manufacturing, processing, or fabricating."

By: McFarland, et al. S.J.R. No. 11
(In the Senate - Filed January 10, 1989; January 11, 1989,
read first time and referred to Committee on Finance;
February 16, 1989, reported adversely, with favorable Committee
Substitute by the following vote: Yeas 12, Nays 1;
February 16, 1989, sent to printer.)

COMMITTEE VOTE

	Yea	Nay	PNV	Absent
Caperton	x			
Glasgow	x			
Barrientos	x			
Brooks	x			
Harris	x			
Johnson	x			
Krier	x			
McFarland	x			
Montford	x			
Parker	x			
Santiesteban	x			
Sims	x			
Truan		x		

COMMITTEE SUBSTITUTE FOR S.J.R. No. 11

By: McFarland

SENATE JOINT RESOLUTION

proposing a constitutional amendment to authorize the exemption
from ad valorem taxation certain personal property temporarily in
the state for certain purposes.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. That Article VIII, Section 1, of the Texas
Constitution is amended to read as follows:

Sec. 1. (a) Taxation shall be equal and uniform.

(b) All real property and tangible personal property in this
State, unless exempt as required or permitted by this Constitution,
whether owned by natural persons or corporations, other than
municipal, shall be taxed in proportion to its value, which shall
be ascertained as may be provided by law.

(c) The Legislature may provide for the taxation of
intangible property and may also impose occupation taxes, both upon
natural persons and upon corporations, other than municipal, doing
any business in this State. It may also tax incomes of both
natural persons and corporations other than municipal, except that
persons engaged in mechanical and agricultural pursuits shall never
be required to pay an occupation tax.

(d) The Legislature by general law shall exempt from ad
valorem taxation household goods not held or used for the
production of income and personal effects not held or used for the
production of income. The Legislature by general law may exempt
from ad valorem taxation:

(1) all or part of the personal property homestead of
a family or single adult, "personal property homestead" meaning
that personal property exempt by law from forced sale for debt; and

(2) subject to Subsection (e) of this section, all
other tangible personal property, except structures which are
personal property and are used or occupied as residential dwellings
and except property held or used for the production of income.

(e) The governing body of a political subdivision may
provide for the taxation of all property exempt under a law adopted
under Subdivision (2) of Subsection (d) of this section and not
exempt from ad valorem taxation by any other law.

(f) [The] The occupation tax levied by any county, city or
town for any year on persons or corporations pursuing any
profession or business, shall not exceed one half of the tax levied
by the State for the same period on such profession or business.

SECTION 2. Article VIII of the Texas Constitution is amended
by adding Section 1-j to read as follows:

Sec. 1-j. (a) To promote economic development in the state,

goods, wares, merchandise, other tangible personal property, and ores, other than oil, natural gas, and other petroleum products, are exempt from ad valorem taxation if:

(1) the property is acquired in or imported into this State to be forwarded outside this State, whether or not the intention to forward the property outside this State is formed or the destination to which the property is forwarded is specified when the property is acquired in or imported into this State;

(2) the property is detained in this State for assembling, storing, manufacturing, processing, or fabricating purposes by the person who acquired or imported the property; and

(3) the property is transported outside of this State not later than 175 days after the date the person acquired or imported the property in this State.

(b) Tangible personal property exempted from taxation in Subsection (a) of this section is subject to the following:

(1) A county, common, or independent school district or municipality, including a home-rule city, may tax such property otherwise exempt, if the governing body of the county, common, or independent school district or municipality takes official action as provided in this section and in the manner provided by law to provide for the taxation of such property.

(2) Any official action to tax such exempt property must be taken before April 1, 1990. If official action is taken to tax such exempt property before January 1, 1990, such property is taxable effective for the tax year 1990. However, if such official action to tax such exempt property is taken prior to April 1, 1990, but after January 1, 1990, the official action shall not become effective to tax such property until the 1991 tax year.

(3) Any of the above-named political subdivisions shall have the authority to exempt from payment of taxation such property located in such above-named political subdivisions for the taxing year 1989. If a governing body exempts the property from 1989 taxes, the governing body shall waive 1989 taxes already imposed and refund 1989 taxes already paid on such property for that year.

(4) The governing body of a county, common, or independent school district, municipality that acts under Subdivision (2) of Subsection (b) of this section to tax the property otherwise exempt by Subsection (a) of this section may subsequently exempt the property from taxation by rescinding its action to tax the property. The exemption applies to each tax year that begins after the date the action is taken and applies to the tax year in which the action is taken if the governing body so provides. A governing body that rescinds its action to tax the property may not take action to tax such property after the rescission.

SECTION 3. Article VIII of the Texas Constitution is amended by adding a Section 1-k to read as follows:

Sec. 1-k. (a) To promote economic development in the State, oil, natural gas, and other petroleum products are exempt from ad valorem taxation if:

(1) the oil, natural gas, and other petroleum products are acquired in or imported into this State to be forwarded outside this State, whether or not the intention to forward the property outside this State is formed or the destination to which the property is forwarded is specified when the property is acquired in or imported into this State;

(2) the property is detained in this State for assembling, storing, manufacturing, processing, or fabricating purposes by the person who acquired or imported the property; and

(3) the property is transported outside of this State not later than 175 days after the date the person acquired or imported the property in this State.

(b) Tangible personal property exempted from taxation in Subsection (a) of this section is subject to the following:

(1) A county, common, or independent school district or municipality, including a home-rule city, may tax such property otherwise exempt, if the governing body of the county, common, or independent school district or municipality takes official action

as provided in this section and in the manner provided by law to provide for the taxation of such property.

(2) Any official action to tax such exempt property must be taken before April 1, 1990. If official action is taken to tax such exempt property before January 1, 1990, such property is taxable effective for the tax year 1990. However, if such official action to tax such exempt property is taken prior to April 1, 1990, but after January 1, 1990, the official action shall not become effective to tax such property until the 1991 tax year.

(3) Any of the above-named political subdivisions shall have the authority to exempt from payment of taxation such property located in such above-named political subdivisions for the taxing year 1989. If a governing body exempts the property from 1989 taxes, the governing body shall waive 1989 taxes already imposed and refund 1989 taxes already paid on such property for that year.

(4) The governing body of a county, common, or independent school district, municipality that acts under Subdivision (2) of Subsection (b) of this section to tax the property otherwise exempt by Subsection (a) of this section may subsequently exempt the property from taxation by rescinding its action to tax the property. The exemption applies to each tax year that begins after the date the action is taken and applies to the tax year in which the action is taken if the governing body so provides. A governing body that rescinds its action to tax the property may not take action to tax such property after the rescission.

SECTION 4. This proposed constitutional amendment shall be submitted to the voters at an election to be held on November 7, 1989. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment promoting economic growth, job creation, and fair tax treatment for Texans who export goods to other states and nations by restoring and allowing the ad valorem tax exemption for personal property that is in Texas only temporarily for the purpose of assembling, storing, manufacturing, processing, or fabricating, by amending Article VIII of the Constitution by adding Sections 1-j and 1-k."

* * * * *

Austin, Texas
February 16, 1989

Hon. William P. Hobby
President of the Senate

Sir:

We, your Committee on Finance to which was referred S.J.R. No. 11, have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do not pass, but that the Committee Substitute adopted in lieu thereof do pass and be printed.

Caperton, Chairman

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

February 8, 1989

TO: Honorable Kent A. Caperton, Chairman
Committee on Finance
Senate Chamber
Austin, Texas

In Re: Senate Joint
Resolution No. 11
By: McFarland

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on Senate Joint Resolution No. 11 (proposing a constitutional amendment to authorize the exemption from ad valorem taxation certain personal property temporarily in the state for certain purposes) this office has determined the following:

The Texas Constitution states that all real and personal property in the State shall be taxed according to its value and provides that laws exempting property other than that mentioned therein are null and void

The Tax Code provides that the State generally has the power to tax personal property if it is in the state for more than a temporary period, normally here but temporarily outside the State on January 1, or continually used in the State. The Code also provides an exception to this rule for goods, wares, ores other than oil, gas, and petroleum products, and merchandise that are in interstate commerce (and therefore exempt under federal law) or that are in the state for only a temporary period. The Code defines this temporary period to be no more than 175 days.

A number of local taxing jurisdictions regarded the statute as unconstitutional and appraised property, and levied and collected taxes on property covered by the statute. Taxpayers generally paid the taxes levied, but the matter finally was taken to court.

In a recent case (Dallas County Appraisal District v. L. D. Brinkman and Company, 701 S.W. 2d 20, Tex. App.--Dallas 1985, writ ref'd n.r.e.), the court declared this exception unconstitutional since the Texas Constitution does not expressly provide for any exemption. The court also ruled that the goods covered by the exception were not exempt under federal law since, in order to be exempt, they would have to be moving in interstate transit or stopped temporarily in the State for reasons unrelated to manufacturing, assembly, storage, and the other exempt processes listed in the Tax Code.

The resolution would amend the Texas Constitution to provide a self-enacting exemption for tangible personal property consisting of goods, wares, merchandise, and ores (other than oil, gas, and petroleum products) if the property originated and is eventually destined out of state, regardless of the intention when the property began its journey into the State, if it remains in Texas for 175 days or less to be assembled, stored, manufactured, processed, or fabricated.

The proposed amendment would authorize the governing body of a county, school district or municipality to prevent the exemption of the tangible personal property which is the subject of the proposal by taking official action before April 1, 1990. If such an entity takes such action before January 1, 1990, the property is taxable for the 1990 tax year. If the entity takes action between January 1 and April 1, 1990, the property is not taxable for 1990 but becomes taxable in the 1991 tax year. If official action is not taken by April 1, 1991, the property becomes exempt automatically. A county, municipality, or school district may rescind a prior decision to tax the property. In such a case, the exemption would become effective in the year of the rescission and the property may not thereafter be taxed.

While the exemption takes effect January 1, 1990, a political subdivision may adopt the exemption for 1989 taxes. If it did so, the governing body must waive 1989 taxes already imposed on the property and refund 1989 taxes already paid.

Local units currently receiving revenue from taxing "freeport" property would experience a reduction in tax revenues should the proposed amendment be adopted and the local governing body not act to prevent the exemption. The revenue could be replaced by a related increase in tax rates, thereby shifting the tax burden to other property owners. The amount of such revenue cannot be estimated because of lack of data. Other jurisdictions which were allowing exemptions, would have potential revenue gain from the court's ruling, but these amounts of potential gain cannot be estimated with reasonable accuracy.

It is difficult to estimate the dollar amount of revenue that would be lost to local governments that would fail to act within the time set in the proposal because the appraisal districts that have been putting the property on the tax rolls have not segregated "freeport" values from other inventory values.

The resolution would be submitted to voters on November 7, 1989. The cost of publication of the resolution to the State is estimated to be \$60,000.

Source: State Property Tax Board; Secretary of State;
LBB Staff: JO, JWH, AL, AM, PA

FILE

71, 89

BILL ANALYSIS

C.S.S.J.R. 11
By: McFarland

Senate Finance Committee
2/15/89

BACKGROUND

The Texas Constitution states that all real and personal property in the state shall be taxed according to its value. The Tax Code provides that the state generally has the power to tax personal property if it is in the state for more than a temporary period. The code provides an exception to this rule for goods, wares, ores other than oil, gas, and petroleum products, and merchandise that are in interstate commerce or that are in the state for only a temporary period. The Code defines this period to be no more than 175 days.

A number of local taxing jurisdictions regarded the statute as unconstitutional and levied taxes on property covered by the statute. In a recent court case, the court declared this exception unconstitutional since the Texas Constitution does not expressly provide the exemption. The court also ruled that goods covered by the exception were not exempt under federal law.

In its January 1989 final report, the Select Committee on Tax Equity found that Texas is the only state that provides neither an inventory nor a goods-in-transit exemption in some form. Thirty five states allow some type of freeport exemption, similar to that provided for in the bill.

PURPOSE:

As proposed, S.J.R. 11 exempts certain personal property temporarily in the state from ad valorem taxation on a local option basis. Permits separate exemptions for one or both of two groups of personal property: (1) goods, wares, merchandise, other tangible personal property, and ores; (2) oil, natural gas, and other petroleum. Provides conditions and procedures for the taxing of such property by political subdivisions.

RULEMAKING AUTHORITY:

It is the committee's opinion that this bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS:

SECTION 1. Amends Section 1, Article VIII, Texas Constitution, to require all real property and tangible personal property in this state, other than that owned by municipal corporations, to be taxed in proportion to its value, unless exempt as required or permitted by the Constitution.

SECTION 2. Amends Article VIII, Texas Constitution, by adding Section 1-j, as follows:

(a) Provides that tangible personal property consisting of goods, wares, merchandise or ores, other than oil, natural gas, and petroleum products, is exempt from ad valorem taxation under the following circumstances:

(1) the property is transported from outside the state into Texas to be forwarded outside the state, whether or not the intention is formed or destination determined when the property is acquired in or imported into the state;

(2) the property is detained for assembling, storing, manufacturing, processing or fabrication; and

(3) the property is not retained in the state for more than 175 days.

(b) (1) Provides that tangible personal property exempted from taxation under Subsection (a) of this section is subject to taxation by certain political subdivisions if the governing body of the subdivision takes official action as provided in this section and in the manner provided by law.

(2) Requires any official action taken to tax such exempt property to be taken before April 1, 1990. Provides that if the tax is to become effective for the 1990 tax year, official action must be taken before January 1, 1990. Provides that official actions taken after that date but before April 1, 1990, do not become effective until the 1991 tax year.

(3) Provides that political subdivisions shall have the authority to exempt from taxation such property located in the subdivision for the taxing year 1989. Requires a governing body of the subdivision to waive 1989 taxes already imposed and refund 1989 taxes already paid, if a governing body exempts the property from 1989 taxes.

(4) Allows the governing body of a political subdivision to exempt property taxed by them under Subsection (b) (2) of this section. Sets forth procedure for the application of such exemptions. Prohibits a governing body that rescinds its action to tax property, from taking action to tax such property after rescission.

SECTION 3. Amends Article VIII, Texas Constitution, by adding Section 1-k as follows:

(a) Provides that oil, natural gas and other petroleum products are exempt from ad valorem taxation under the following circumstances:

(1) the property is transported from outside the state into Texas to be forwarded outside the state, whether or not the intention is formed or destination determined when the property is acquired in or imported into the state;

(2) the property is detained for assembling, storing, manufacturing, processing or fabrication; and

(3) the property is not retained in the state for more than 175 days.

(b) (1) Provides that tangible personal property exempted from taxation under Subsection (a) of this section is subject to taxation by certain political subdivisions if the governing body of the subdivision takes official action as provided in this section and in the manner provided by law.

(2) Requires any official action taken to tax such exempt property to be taken before April 1, 1990. Provides that if the tax is to become effective for the 1990 tax year, official action must be taken before January 1, 1990. Provides that official actions taken after that date but before April 1, 1990, do not become effective until 1991 tax year.

(3) Provides that political subdivisions shall have the authority to exempt from taxation such property located in the subdivision for the taxing year 1989. Requires a governing body of the subdivision to waive 1989 taxes already imposed and refund 1989 taxes already paid, if a governing body exempts the property from 1989 taxes.

(4) Allows the governing body of a political subdivision to exempt property taxed by them under Subsection (b) (2) of this section. Sets forth procedure for the application of such exemptions. Prohibits a governing body that rescinds

its action to tax property, from taking action to tax such property after rescission.

SECTION 4. Requires this proposed constitutional amendment to be submitted to the voters at an election held on November 7, 1989. Requires ballot to provide for voting for or against the proposition. Provides language to be used on the ballot.

SENATE FAVORABLY AS SUBSTITUTED COMMITTEE REPORT

Lt. Governor William P. Hobby
President of the Senate

16
Feb. 15, 1989 9:25am
(date)/(time)

Sir:

We, your Committee on FINANCE to which was referred
STR 11 by McFarland have on Feb. 15, 1989, had the same
(measure) (sponsor) (hearing date)

under consideration and I am instructed to report it back with the recommendation (s) that it

☒ do pass as substituted, and be printed
☒ the caption remained the same as original measure
☐ the caption changed with adoption of the substitute

☐ do pass as substituted, and be ordered not printed

☐ and is recommended for placement on the Local and Uncontested Bills Calendar.

A fiscal note was requested. ☒ yes ☐ no

A revised fiscal note was requested. ☒ yes ☐ no

An actuarial analysis was requested. ☐ yes ☒ no

Considered by subcommittee. ☐ yes ☒ no

Senate Sponsor of House Measure _____

The measure was reported from Committee by the following vote:

	YEA	NAY	PNV	ABSENT
Barrientos	<input checked="" type="checkbox"/>			
Brooks	<input checked="" type="checkbox"/>			
Glasgow	<input checked="" type="checkbox"/>			
Harris	<input checked="" type="checkbox"/>			
Johnson	<input checked="" type="checkbox"/>			
Krier	<input checked="" type="checkbox"/>			
McFarland	<input checked="" type="checkbox"/>			
Montford	<input checked="" type="checkbox"/>			
Parker	<input checked="" type="checkbox"/>			
Santiesteban	<input checked="" type="checkbox"/>			
Sims	<input checked="" type="checkbox"/>			
Truan		<input checked="" type="checkbox"/>		
Caperton, Chair	<input checked="" type="checkbox"/>			
TOTAL VOTES	12	1		

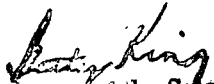
Lina Martin
COMMITTEE CLERK

Kent Caperton
CHAIRMAN

AMEND THE CAPTION TO CONFORM
TO THE BODY OF THE BILL

ADOPTED

MAR 16 1989


Secretary of the Senate

By McFarland

SJR 11

Substitute the following for SJR No. 11:

By *[Signature]*

CSSJR No.11

SENATE
A JOINT RESOLUTION

proposing a constitutional amendment to authorize the exemption from ad valorem taxation certain personal property temporarily in the state for certain purposes.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. That Article VIII, Section 1, of the Texas Constitution is amended to read as follows:

Sec. 1. (a) Taxation shall be equal and uniform.

(b) All real property and tangible personal property in this State, unless exempt as required or permitted by this Constitution, whether owned by natural persons or corporations, other than municipal, shall be taxed in proportion to its value, which shall be ascertained as may be provided by law.

(c) The Legislature may provide for the taxation of intangible property and may also impose occupation taxes, both upon natural persons and upon corporations, other than municipal, doing any business in this State. It may also tax incomes of both natural persons and corporations other than municipal, except that persons engaged in mechanical and agricultural pursuits shall never be required to pay an occupation tax.

(d) The Legislature by general law shall exempt from ad valorem taxation household goods not held or used for the production of income and personal effects not held or used for the production of income. The Legislature by general law may

*Replaced
by Conference
Committee Report*

*2-16-89 Type & proof
3-16-89*

1 exempt from ad valorem taxation:✓

2 (1) all or part of the personal property homestead of a
3 family or single adult, "personal property homestead" meaning
4 that personal property exempt by law from forced sale for debt;
5 and

6 (2) subject to Subsection (e) of this section, all
7 other tangible personal property, except structures which are
8 personal property and are used or occupied as residential
9 dwellings and except property held or used for the production of
10 income.

11 (e) The governing body of a political subdivision may
12 provide for the taxation of all property exempt under a law
13 adopted under Subdivision (2) of Subsection (d) of this section
14 and not exempt from ad valorem taxation by any other law.

15 ~~(f)~~[(h)] The occupation tax levied by any county, city or
16 town for any year on persons or corporations pursuing any
17 profession or business, shall not exceed one half of the tax
18 levied by the State for the same period on such profession or
19 business.

20 SECTION 2. Article VIII of the Texas Constitution is amended
21 by adding ~~a~~ Section 1-j to read as follows:

22 Sec. 1-j. (a) To promote economic development in the state,
23 goods, wares, merchandise, other tangible personal property, and
24 ores, other than oil, natural gas, and other petroleum products,
25 are exempt from ad valorem taxation if:

26 (1) the property is acquired in or imported into this
27 State to be forwarded outside this State, whether or not the

1 intention to forward the property outside this State is formed
2 or the destination to which the property is forwarded is
3 specified when the property is acquired in or imported into this
4 state; 2/3

5 (2) the property is detained in this State for
6 assembling, storing, manufacturing, processing, or fabrication^{ng}
7 purposes by the person who acquired or imported the property; and

8 (3) the property is transported outside of this state
9 not later than 175 days after the date the person acquired or
10 imported the property in this state.

11 (b) Tangible personal property exempted from taxation in
12 subsection (a) of this section is subject to the following:

13 (1) A county, common, or independent school district, or junior college district,
14 municipality, including a home-rule city, may tax such property
15 otherwise exempt, if the governing body of the county, common, or
16 independent school district, or junior college district, or municipality takes official action
17 as provided in this section and in the manner provided by law to
18 provide for the taxation of such property.

19 (2) Any official action to tax such exempt property
20 must be taken before April 1, 1990. If official action is taken
21 to tax such exempt property before January 1, 1990, such property
22 is taxable effective for the tax year 1990. However, if such
23 official action to tax such exempt property is taken prior to
24 April 1, 1990, but after January 1, 1990, the official action
25 shall not become effective to tax such property until the 1991
26 tax year.

27 (3) Any of the above-named political subdivisions shall

1 have the authority to exempt from payment of taxation such
2 property located in such above-named political subdivisions for
3 the taxing year 1989. If a governing body exempts the property
4 from^{3/} 1989 taxes, the governing body shall waive 1989 taxes
5 already imposed and refund 1989 taxes already paid on such
6 property for that year.

7 (4) The governing body of a county, common, or
8 independent school district, ^{or junior college district or Subdivision (2) of Subsection} municipality that acts under ~~(b) (2)~~
9 of this section to tax the property otherwise exempt by
10 subsection (a) of this section may subsequently exempt the
11 property from taxation by rescinding its action to tax the
12 property. The exemption applies to each tax year that begins
13 after the date the action is taken and applies to the tax year in
14 which the action is taken if the governing body so provides. A
15 governing body that rescinds its action to tax the property may
16 not take action to tax such property after the rescission.

17 SECTION 3. Article VIII of the Texas Constitution is amended
18 by adding a section 1-k to read as follows:

19 Sec. 1-k. (a) To promote economic development in the state,
20 oil, natural gas, and other petroleum products are exempt from ad
21 valorem taxation if:

22 (1) the oil, natural gas, and other petroleum products
23 are acquired in or imported into this state to be forwarded
24 outside this state, whether or not the intention to forward the
25 property outside this state is formed^{6/} or the destination to
26 which the property is forwarded is specified when the property is
27 acquired in or imported into this state;

1 (2) the property is detained in this state for^{4/5}
2 assembling, storing, manufacturing, processing, or fabrication^{ing}
3 purposes by the person who acquired or imported the property; and

4 (3) the property is transported outside of this state
5 not later than 175 days after the date the person acquired or
6 imported the property in this state.

7 (b) Tangible personal property exempted from taxation in
8 subsection (a) of this section is subject to the following:

9 (1) A county, common, or independent school district, or^{or junior college district,}
10 municipality, including a home-rule city, may tax such property
11 otherwise exempt, if the governing body of the county, common, or
12 independent school district, or junior college district, or municipality takes official action
13 as provided in this section and in the manner provided by law to
14 provide for the taxation of such property.

15 (2) Any official action to tax such exempt property
16 must be taken before April 1, 1990. If official action is taken
17 to tax such exempt property before January 1, 1990, such property
18 is taxable effective for the tax year 1990. However, if such
19 official action to tax such exempt property is taken prior to
20 April 1, 1990, but after January 1, 1990, the official action
21 shall not become effective to tax such property until the 1991
22 tax year.

23 (3) Any of the above-named political subdivisions shall
24 have the authority to exempt from payment of taxation such
25 property located in such above-named political subdivisions for
26 the taxing year 1989. If a governing body exempts the property
27 from 1989 taxes, the governing body shall waive 1989 taxes

1 already^{5/}imposed and refund 1989 taxes already paid on such
2 property for that year.

3 (4) The governing body of a county, common, or
4 independent school district, ^{or junior college district, or} municipality that acts under ^{Subdivision (2) of Subsection (b)} ~~(b)(2)~~
5 of this section to tax the property otherwise exempt by
6 subsection (a) of this section may subsequently exempt the
7 property from taxation by rescinding its action to tax the
8 property. The exemption applies to each tax year that begins
9 after the date the action is taken and applies to the tax year in
10 which the action is taken if the governing body so provides. A
11 governing body that rescinds its action to tax the property may
12 not take action to tax such property after the rescission.

13 SECTION 4. This proposed constitutional amendment shall be
14 submitted to the voters at an election to be held on November 7,
15 1989. The ballot shall be printed to provide for voting for or
16 against the proposition: "The constitutional amendment promoting
17 economic growth, job creation, and fair tax treatment for Texans
18 who export goods to other states and nations by restoring and
19 allowing the ad valorem tax exemption for personal property that
20 is in Texas only temporarily for the purpose of assembling,
21 storing, manufacturing, processing, or fabricating, by amending
22 Article VIII of the Constitution by adding Sections 1-j and 1-k."

AMENDMENT NO. 74

42

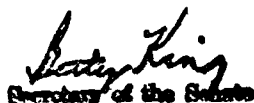

By _____

Amend CSSJR No. 11, by striking Section 4 and substituting the following:

SECTION 4. This proposed constitutional amendment shall be submitted to the voters at an election to be held on November 7, 1989. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment promoting economic growth, job creation, and fair tax treatment for Texans who export goods to other states and nations by restoring and allowing, on a local option basis, an ad valorem tax exemption for personal property that is in Texas only temporarily for the purpose of assembling, storing, manufacturing, processing or fabricating, by adding sections 1-j and 1-k to Article VIII of the Constitution."

ADOPTED

MAR 16 1989


Secretary of the Senate

Floor Am. #1
3-16-89

5196X

AMENDMENT NO. 2

By Prima

Amend CSSJR No. 11, Section 2 [✓]b(1) (page 3, line 13),
Section 2 b(4) (page 4, line 8), Section 3 [✓]b(1) (page 5, line 9)
and Section 3 b(4) (page 6, line 4) by adding the words ^{or}junior
college district, after the words "independent school district"
and before the word "municipality".

5262X

p. 3 l. 13 ⁴¹⁶ , or junior college district,
p. 4 l. 8 or junior college district, or
p. 5 l. 9 ¹² , or junior college district,
p. 6 l. 4 - or junior college district, or

ADOPTED

MAR 16 1989

Betty King
Secretary of the Board

How Am. #2
3-16-89

March 16 1989 Engrossed

Latsy Saw
Engrossing Clerk

I certify that the attached is a true and correct
copy of STR 11, which was

received from the Senate MAR 20 1989 and

referred to the Committee on Appropriations
Betty Murrain
Chief Clerk of the House

By: McFarland, Santiesteban
Johnson, Bivins

S.J.R. No. 11

SENATE JOINT RESOLUTION

proposing a constitutional amendment to authorize the exemption
from ad valorem taxation certain personal property temporarily in
the state for certain purposes.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. That Article VIII, Section 1, of the Texas
Constitution is amended to read as follows:

Sec. 1. (a) Taxation shall be equal and uniform.

(b) All real property and tangible personal property in this
State, unless exempt as required or permitted by this Constitution,
whether owned by natural persons or corporations, other than
municipal, shall be taxed in proportion to its value, which shall
be ascertained as may be provided by law.

(c) The Legislature may provide for the taxation of
intangible property and may also impose occupation taxes, both upon
natural persons and upon corporations, other than municipal, doing
any business in this State. It may also tax incomes of both
natural persons and corporations other than municipal, except that
persons engaged in mechanical and agricultural pursuits shall never
be required to pay an occupation tax.

(d) The Legislature by general law shall exempt from ad
valorem taxation household goods not held or used for the
production of income and personal effects not held or used for the
production of income. The Legislature by general law may exempt
from ad valorem taxation:

1 (1) all or part of the personal property homestead of
2 a family or single adult, "personal property homestead" meaning
3 that personal property exempt by law from forced sale for debt; and

4 (2) subject to Subsection (e) of this section, all
5 other tangible personal property, except structures which are
6 personal property and are used or occupied as residential dwellings
7 and except property held or used for the production of income.

8 (e) The governing body of a political subdivision may
9 provide for the taxation of all property exempt under a law adopted
10 under Subdivision (2) of Subsection (d) of this section and not
11 exempt from ad valorem taxation by any other law.

12 (f) [~~h~~] The occupation tax levied by any county, city or
13 town for any year on persons or corporations pursuing any
14 profession or business, shall not exceed one half of the tax levied
15 by the State for the same period on such profession or business.

16 SECTION 2. Article VIII of the Texas Constitution is amended
17 by adding Section 1-j to read as follows:

18 Sec. 1-j. (a) To promote economic development in the state,
19 goods, wares, merchandise, other tangible personal property, and
20 ores, other than oil, natural gas, and other petroleum products,
21 are exempt from ad valorem taxation if:

22 (1) the property is acquired in or imported into this
23 State to be forwarded outside this State, whether or not the
24 intention to forward the property outside this State is formed or
25 the destination to which the property is forwarded is specified
26 when the property is acquired in or imported into this State;

1 (2) the property is detained in this State for
2 assembling, storing, manufacturing, processing, or fabricating
3 purposes by the person who acquired or imported the property; and

4 (3) the property is transported outside of this State
5 not later than 175 days after the date the person acquired or
6 imported the property in this State.

7 (b) Tangible personal property exempted from taxation in
8 Subsection (a) of this section is subject to the following:

9 (1) A county, common, or independent school district,
10 or junior college district, or municipality, including a home-rule
11 city, may tax such property otherwise exempt, if the governing body
12 of the county, common, or independent school district, or junior
13 college district, or municipality takes official action as provided
14 in this section and in the manner provided by law to provide for
15 the taxation of such property.

16 (2) Any official action to tax such exempt property
17 must be taken before April 1, 1990. If official action is taken to
18 tax such exempt property before January 1, 1990, such property is
19 taxable effective for the tax year 1990. However, if such official
20 action to tax such exempt property is taken prior to April 1, 1990,
21 but after January 1, 1990, the official action shall not become
22 effective to tax such property until the 1991 tax year.

23 (3) Any of the above-named political subdivisions
24 shall have the authority to exempt from payment of taxation such
25 property located in such above-named political subdivisions for the
26 taxing year 1989. If a governing body exempts the property from

1 1989 taxes, the governing body shall waive 1989 taxes already
 2 imposed and refund 1989 taxes already paid on such property for
 3 that year.

4 (4) The governing body of a county, common, or
 5 independent school district, or junior college district, or
 6 municipality that acts under Subdivision (2) of Subsection (b) of
 7 this section to tax the property otherwise exempt by Subsection (a)
 8 of this section may subsequently exempt the property from taxation
 9 by rescinding its action to tax the property. The exemption
 10 applies to each tax year that begins after the date the action is
 11 taken and applies to the tax year in which the action is taken if
 12 the governing body so provides. A governing body that rescinds its
 13 action to tax the property may not take action to tax such property
 14 after the rescission.

15 SECTION 3. Article VIII of the Texas Constitution is amended
 16 by adding a Section 1-k to read as follows:

17 Sec. 1-k. (a) To promote economic development in the State,
 18 oil, natural gas, and other petroleum products are exempt from ad
 19 valorem taxation if:

20 (1) the oil, natural gas, and other petroleum products
 21 are acquired in or imported into this State to be forwarded outside
 22 this State, whether or not the intention to forward the property
 23 outside this State is formed or the destination to which the
 24 property is forwarded is specified when the property is acquired in
 25 or imported into this State;

26 (2) the property is detained in this State for

1 assembling, storing, manufacturing, processing, or fabricating
2 purposes by the person who acquired or imported the property; and

3 (3) the property is transported outside of this State
4 not later than 175 days after the date the person acquired or
5 imported the property in this State.

6 (b) Tangible personal property exempted from taxation in
7 Subsection (a) of this section is subject to the following:

8 (1) A county, common, or independent school district,
9 or junior college district, or municipality, including a home-rule
10 city, may tax such property otherwise exempt, if the governing body
11 of the county, common, or independent school district, or junior
12 college district, or municipality takes official action as provided
13 in this section and in the manner provided by law to provide for
14 the taxation of such property.

15 (2) Any official action to tax such exempt property
16 must be taken before April 1, 1990. If official action is taken to
17 tax such exempt property before January 1, 1990, such property is
18 taxable effective for the tax year 1990. However, if such official
19 action to tax such exempt property is taken prior to April 1, 1990,
20 but after January 1, 1990, the official action shall not become
21 effective to tax such property until the 1991 tax year.

22 (3) Any of the above-named political subdivisions
23 shall have the authority to exempt from payment of taxation such
24 property located in such above-named political subdivisions for the
25 taxing year 1989. If a governing body exempts the property from
26 1989 taxes, the governing body shall waive 1989 taxes already

1 imposed and refund 1989 taxes already paid on such property for
2 that year.

3 (4) The governing body of a county, common, or
4 independent school district, or junior college district, or
5 municipality that acts under Subdivision (2) of Subsection (b) of
6 this section to tax the property otherwise exempt by Subsection (a)
7 of this section may subsequently exempt the property from taxation
8 by rescinding its action to tax the property. The exemption
9 applies to each tax year that begins after the date the action is
10 taken and applies to the tax year in which the action is taken if
11 the governing body so provides. A governing body that rescinds its
12 action to tax the property may not take action to tax such property
13 after the rescission.

14 SECTION 4. This proposed constitutional amendment shall be
15 submitted to the voters at an election to be held on November 7,
16 1989. The ballot shall be printed to provide for voting for or
17 against the proposition: "The constitutional amendment promoting
18 economic growth, job creation, and fair tax treatment for Texans
19 who export goods to other states and nations by restoring and
20 allowing, on a local option basis, an ad valorem tax exemption for
21 personal property that is in Texas only temporarily for the purpose
22 of assembling, storing, manufacturing, processing, or fabricating,
23 by adding Sections 1-j and 1-k to Article VIII of the
24 Constitution."

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

February 21, 1989

FEB 22 REC'D

TO: Honorable Kent A. Caperton, Chairman
Committee on Finance
Senate Chamber
Austin, Texas

In Re: Committee Substitute
for Senate Joint
Resolution No. 11

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on Committee Substitute for Senate Joint Resolution No. 11 (proposing a constitutional amendment to authorize the exemption from ad valorem taxation certain personal property temporarily in the state for certain purposes) this office has determined the following:

The Texas Constitution states that all real and personal property in the State shall be taxed according to its value and provides that laws exempting property other than that mentioned therein are null and void.

The Tax Code provides that the State generally has the power to tax personal property if it is in the state for more than a temporary period, normally here but temporarily outside the State on January 1, or continually used in the State. The Code also provides an exception to this rule for goods, wares, ores other than oil, gas, and petroleum products, and merchandise that are in interstate commerce (and therefore exempt under federal law) or that are in the state for only a temporary period. The Code defines this temporary period to be no more than 175 days.

A number of local taxing jurisdictions regarded the statute as unconstitutional and appraised property, and levied and collected taxes on property covered by the statute. Taxpayers generally paid the taxes levied, but the matter finally was taken to court.

In a recent case (Dallas County Appraisal District v. L. D. Brinkman and Company, 701 S.W. 2d 20, Tex. App.--Dallas 1985, writ ref'd n.r.e.), the court declared this exception unconstitutional since the Texas Constitution does not expressly provide for any exemption. The court also ruled that the goods covered by the exception were not exempt under federal law since, in order to be exempt, they would have to be moving in interstate transit or stopped temporarily in the State for reasons unrelated to manufacturing, assembly, storage, and the other exempt processes listed in the Tax Code.

The resolution would amend the Texas Constitution to provide a self-enacting exemption for tangible personal property consisting of goods, wares, merchandise, and ores (other than oil, gas, and petroleum products) if the property is acquired in or imported into the state and is eventually destined out of state, regardless of the intention when the property began its journey into the State, if it remains in Texas for 175 days or less to be assembled, stored, manufactured, processed, or fabricated. The resolution also would provide a separate local option for oil, gas, and other petroleum products.

The proposed amendment would authorize the governing body of a county, school district or municipality to prevent the exemption of the tangible personal property which is the subject of the proposal by taking official action before April 1, 1990. If such an entity takes such action before January 1, 1990, the property is taxable for the 1990 tax year. If the entity takes action between January 1 and April 1, 1990, the property is not taxable for 1990 but becomes taxable in the 1991 tax year. If official action is not taken by April 1, 1990, the property becomes exempt automatically. A county, municipality, or school district may rescind a prior decision to tax the property. In such a case, the exemption would become effective in the year of the rescission and the property may not thereafter be taxed.

While the exemption takes effect January 1, 1990, a political subdivision may adopt the exemption for 1989 taxes. If it did so, the governing body must waive 1989 taxes already imposed on the property and refund 1989 taxes already

paid.

Local units currently receiving revenue from taxing "freeport" property would experience a reduction in tax revenues should the proposed amendment be adopted and the local governing body not act to prevent the exemption. The revenue could be replaced by a related increase in tax rates, thereby transferring the tax burden to other property owners. The amount of such revenue cannot be estimated because of lack of data.

It is difficult to estimate the dollar amount of revenue that would be lost to local governments that would fail to act within the time set in the proposal because the appraisal districts that have been putting the property on the tax rolls have not segregated "freeport" values from other inventory values.

The resolution would be submitted to voters on November 7, 1989. The cost of publication of the resolution to the State is estimated to be \$60,000.

No additional fiscal implication to the State is anticipated.

Source: State Property Tax Board; Secretary of State;
LBB Staff: JO, JWH, AL, CKM

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

February 8, 1989

TO: Honorable Kent A. Caperton, Chairman
Committee on Finance
Senate Chamber
Austin, Texas

In Re: Senate Joint
Resolution No. 11
By: McFarland

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on Senate Joint Resolution No. 11 (proposing a constitutional amendment to authorize the exemption from ad valorem taxation certain personal property temporarily in the state for certain purposes) this office has determined the following:

The Texas Constitution states that all real and personal property in the State shall be taxed according to its value and provides that laws exempting property other than that mentioned therein are null and void

The Tax Code provides that the State generally has the power to tax personal property if it is in the state for more than a temporary period, normally here but temporarily outside the State on January 1, or continually used in the State. The Code also provides an exception to this rule for goods, wares, ores other than oil, gas, and petroleum products, and merchandise that are in interstate commerce (and therefore exempt under federal law) or that are in the state for only a temporary period. The Code defines this temporary period to be no more than 175 days.

A number of local taxing jurisdictions regarded the statute as unconstitutional and appraised property, and levied and collected taxes on property covered by the statute. Taxpayers generally paid the taxes levied, but the matter finally was taken to court.

In a recent case (Dallas County Appraisal District v. L. D. Brinkman and Company, 701 S.W. 2d 20, Tex. App.--Dallas 1985, writ ref'd n.r.e.), the court declared this exception unconstitutional since the Texas Constitution does not expressly provide for any exemption. The court also ruled that the goods covered by the exception were not exempt under federal law since, in order to be exempt, they would have to be moving in interstate transit or stopped temporarily in the State for reasons unrelated to manufacturing, assembly, storage, and the other exempt processes listed in the Tax Code.

The resolution would amend the Texas Constitution to provide a self-enacting exemption for tangible personal property consisting of goods, wares, merchandise, and ores (other than oil, gas, and petroleum products) if the property originated and is eventually destined out of state, regardless of the intention when the property began its journey into the State, if it remains in Texas for 175 days or less to be assembled, stored, manufactured, processed, or fabricated.

The proposed amendment would authorize the governing body of a county, school district or municipality to prevent the exemption of the tangible personal property which is the subject of the proposal by taking official action before April 1, 1990. If such an entity takes such action before January 1, 1990, the property is taxable for the 1990 tax year. If the entity takes action between January 1 and April 1, 1990, the property is not taxable for 1990 but becomes taxable in the 1991 tax year. If official action is not taken by April 1, 1991, the property becomes exempt automatically. A county, municipality, or school district may rescind a prior decision to tax the property. In such a case, the exemption would become effective in the year of the rescission and the property may not thereafter be taxed.

While the exemption takes effect January 1, 1990, a political subdivision may adopt the exemption for 1989 taxes. If it did so, the governing body must waive 1989 taxes already imposed on the property and refund 1989 taxes already paid.

Local units currently receiving revenue from taxing "freeport" property would experience a reduction in tax revenues should the proposed amendment be adopted and the local governing body not act to prevent the exemption. The revenue could be replaced by a related increase in tax rates, thereby shifting the tax burden to other property owners. The amount of such revenue cannot be estimated because of lack of data. Other jurisdictions which were allowing exemptions, would have potential revenue gain from the court's ruling, but these amounts of potential gain cannot be estimated with reasonable accuracy.

It is difficult to estimate the dollar amount of revenue that would be lost to local governments that would fail to act within the time set in the proposal because the appraisal districts that have been putting the property on the tax rolls have not segregated "freeport" values from other inventory values.

The resolution would be submitted to voters on November 7, 1989. The cost of publication of the resolution to the State is estimated to be \$60,000.

Source: State Property Tax Board; Secretary of State;
LBB Staff: JO, JWH, AL, AM, PA

HOUSE COMMITTEE REPORT

1st Printing

HOUSE OF REPRESENTATIVES
65 APR 17 AM 9:27

By McFarland, Santiesteban, Johnson, Bivins
(Berlanga)
Substitute the following for S.J.R. No. 11:

S.J.R. No. 11

By Berlanga

C.S.S.J.R. No. 11

A JOINT RESOLUTION

1 proposing a constitutional amendment to authorize the exemption
2 from ad valorem taxation certain personal property temporarily in
3 the state for certain purposes.

4 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. That Article VIII, Section 1, of the Texas
6 Constitution is amended to read as follows:

7 Sec. 1. (a) Taxation shall be equal and uniform.

8 (b) All real property and tangible personal property in this
9 State, unless exempt as required or permitted by this Constitution,
10 whether owned by natural persons or corporations, other than
11 municipal, shall be taxed in proportion to its value, which shall
12 be ascertained as may be provided by law.

13 (c) The Legislature may provide for the taxation of
14 intangible property and may also impose occupation taxes, both upon
15 natural persons and upon corporations, other than municipal, doing
16 any business in this State. It may also tax incomes of both
17 natural persons and corporations other than municipal, except that
18 persons engaged in mechanical and agricultural pursuits shall never
19 be required to pay an occupation tax.

20 (d) The Legislature by general law shall exempt from ad
21 valorem taxation household goods not held or used for the
22 production of income and personal effects not held or used for the
23 production of income. The Legislature by general law may exempt
24 from ad valorem taxation:

1 (1) all or part of the personal property homestead of
2 a family or single adult, "personal property homestead" meaning
3 that personal property exempt by law from forced sale for debt; and

4 (2) subject to Subsection (e) of this section, all
5 other tangible personal property, except structures which are
6 personal property and are used or occupied as residential dwellings
7 and except property held or used for the production of income.

8 (e) The governing body of a political subdivision may
9 provide for the taxation of all property exempt under a law adopted
10 under Subdivision (2) of Subsection (d) of this section and not
11 exempt from ad valorem taxation by any other law.

12 (f) [~~h~~] The occupation tax levied by any county, city or
13 town for any year on persons or corporations pursuing any
14 profession or business, shall not exceed one half of the tax levied
15 by the State for the same period on such profession or business.

16 SECTION 2. Article VIII of the Texas Constitution is amended
17 by adding a Section 1-j to read as follows:

18 Sec. 1-j. (a) To promote economic development in the state,
19 goods, wares, merchandise, other tangible personal property, and
20 ores, other than oil, natural gas, and other petroleum products,
21 are exempt from ad valorem taxation if:

22 (1) the property is acquired in or imported into this
23 State to be forwarded outside this State, whether or not the
24 intention to forward the property outside this State is formed, or
25 the destination to which the property is forwarded is specified
26 when the property is acquired in or imported into this state;

27 (2) the property is detained in this State for

1 assembling, storing, manufacturing, processing, or fabrication
2 purposes by the person who acquired or imported the property; and

3 (3) the property is transported outside of this state
4 not later than 175 days after the date the person acquired or
5 imported the property in this state.

6 (b) Tangible personal property exempted from taxation in
7 subsection (a) of this section is subject to the following:

8 (1) A county, common, or independent school district,
9 or junior college district, or municipality, including a home-rule
10 city, may tax such property otherwise exempt, if the governing body
11 of the county, common, or independent school district, or junior
12 college district, or municipality takes official action as provided
13 in this section and in the manner provided by law to provide for
14 the taxation of such property.

15 (2) Any official action to tax such exempt property
16 must be taken before April 1, 1990. If official action is taken to
17 tax such exempt property before January 1, 1990, such property is
18 taxable effective for the tax year 1990. However, if such official
19 action to tax such exempt property is taken prior to April 1, 1990,
20 but after January 1, 1990, the official action shall not become
21 effective to tax such property until the 1991 tax year.

22 (3) Any of the above-named political subdivisions
23 shall have the authority to exempt from payment of taxation such
24 property located in such above-named political subdivisions for the
25 taxing year 1989. If a governing body exempts the property from
26 1989 taxes, the governing body shall waive 1989 taxes already
27 imposed and refund 1989 taxes already paid on such property for

1 that year.

2 (4) The governing body of a county, common, or
3 independent school district, municipality that acts under (b)(2) of
4 this section to tax the property otherwise exempt by subsection (a)
5 of this section may subsequently exempt the property from taxation
6 by rescinding its action to tax the property. The exemption
7 applies to each tax year that begins after the date the action is
8 taken and applies to the tax year in which the action is taken if
9 the governing body so provides. A governing body that rescinds its
10 action to tax the property may not take action to tax such property
11 after the rescission.

12 SECTION 3. This proposed constitutional amendment shall be
13 submitted to the voters at an election to be held on November 7,
14 1989. The ballot shall be printed to provide for voting for or
15 against the proposition: "The constitutional amendment promoting
16 economic growth, job creation and fair tax treatment for Texans who
17 export goods to other states and nations by restoring and allowing,
18 on a local option basis, an ad valorem tax exemption for certain
19 personal property that is in Texas only temporarily for the purpose
20 of assembling, storing, manufacturing, processing or fabricating."

COMMITTEE REPORT

The Honorable Gib Lewis
Speaker of the House of Representatives

4-12-89
(date)

Sir:

We, your COMMITTEE ON WAYS AND MEANS,

to whom was referred S. J. R. 11 have had the same under consideration and beg to report
(measure)

back with the recommendation that it

- () do pass, without amendment.
() do pass, with amendment(s).
(☒) do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.

A fiscal note was requested. (☒) yes () no An actuarial analysis was requested. () yes (☒) no

An author's fiscal statement was requested. () yes (☒) no

A criminal justice policy impact statement was prepared. () yes (☒) no

A water development policy impact statement was requested. () yes (☒) no

() The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars for placement on the () Local, () Consent, or () Resolutions Calendar.

This measure (☒) proposes new law. (☒) amends existing law.

House Sponsor of Senate Measure Berlanga

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Hury, Ch.		<input checked="" type="checkbox"/>		
Luna, V.C.	<input checked="" type="checkbox"/>			
Hollowell, C.B.O.	<input checked="" type="checkbox"/>			
Berlanga	<input checked="" type="checkbox"/>			
Craddick	<input checked="" type="checkbox"/>			
Heflin	<input checked="" type="checkbox"/>			
Morales				<input checked="" type="checkbox"/>
Schlueter		<input checked="" type="checkbox"/>		
Seidlits	<input checked="" type="checkbox"/>			
Stiles		<input checked="" type="checkbox"/>		
Williamson				<input checked="" type="checkbox"/>
Wilson	<input checked="" type="checkbox"/>			
Wolens	<input checked="" type="checkbox"/>			

Total
8 aye
3 nay
0 present, not voting
2 absent

[Signature]
CHAIRMAN
[Signature]
COMMITTEE COORDINATOR

BILL ANALYSIS

BACKGROUND

Under current Texas law, all business personal property--including inventories--is subject to the property tax. Among the inventories subject to tax are those of goods temporarily located in the state and inventories of oil and gas. It is more difficult to administer the property tax on business personal property since this property is mobile and less readily identifiable.

In response to these administrative difficulties and in an effort to improve their tax competitiveness, many states have exempted certain types of business personal property from the property tax. According to the Select Committee on Tax Equity, six states have no tax on business personal property of any kind, while 30 states have a full or partial exemption of business inventories. Four states allow a local option exemption. Of the ten states that do tax business personal property, nine allow some type of exemption for so-called "freeport" goods, or "goods in transit"--i.e. goods temporarily located in the state for processing. Texas is the only state that provides no freeport or business inventories exemption of any kind.

The Texas Constitution provides that all real and personal property in the state shall be taxed in proportion to its value unless exempted by the Constitution.

Previously, the Legislature had exempted freeport property by statute, but in Dallas County Appraisal District v. L.D. Brinkman and Company, the court held that the exemption was null and void because the Texas Constitution did not provide for the exemption.

In 1987, Texas voters turned down a proposed constitutional amendment which would have allowed for a local option exemption of freeport property.

PURPOSE

To submit a Constitutional amendment to Texas voters that would exempt from the property tax certain goods in transit. Local taxing units would have the option to maintain the property tax on these items.

SECTION-BY-SECTION ANALYSIS

SECTION 1. Amends Article VIII, Section 1 of the Texas Constitution. Section (b) provides that exemptions to the property tax are as permitted in the Constitution. Section (h) is re-designated as Section (f) to eliminate a gap in the existing Constitution.

SECTION 2. Adds a new Section 1-j to the Constitution.

Subsection (a) provides an exemption from the property tax for certain tangible personal property, other than oil, natural gas, and other petroleum products, if:

- o the property is to be assembled, stored, manufactured, processed, or fabricated by the purchaser, and
- o the property is to be transported out of the state no later than 175 days after its acquisition.

C.S.S.J.R. 11
(S.J.R. 11)
cont.

Berlanga
(McFarland, Santiesteban,
Johnson, Bilins)
(HS: Berlanga)

Subsection (b) provides that the property identified in subsection (a) is exempt unless the governing board of a county, school district, junior college district, or municipality takes official action to tax it by April 1, 1990. The jurisdiction must take action before January 1, 1990 if the property is to be taxable for the 1990 tax year. Jurisdictions are given the option to exempt the property for the 1989 tax year, and provide refunds. Political subdivisions are allowed to rescind their action to tax the property identified in subsection (a), but once specific action is taken to exempt the property in Subsection (a), they may not later opt to restore the tax.

SECTION 3. Requires submission of the amendment to the voters on November 7, 1989; specifies ballot language.

RULEMAKING AUTHORITY

It is the committee's opinion that this amendment does not provide new rulemaking authority to a state agency, officer, department or institution.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The original bill provided for the exemption of oil and gas inventories.

SUMMARY OF THE COMMITTEE ACTION

Public notice was posted in accordance to the rules and a public hearing was held on February 8, 1989 on H.J.R. 9 and H.J.R. 14, House companion measures. The following persons testified in support: Mr. Jerome W. Johnson, representing Textrade, Inc.; Mr. Larry Milner, representing members of the Texas Chamber of Commerce; Mr. Phil Cates, representing the Texas Association of Business; Ms. Lucia Wyman, representing American Electronics Association; and Mr. Ron Parrish, representing the Tandy Corporation and the Fort Worth and Greater Dallas Chamber of Commerce. The following persons registered in support: Mr. Walter Fisher representing the Texas Municipal League; Mr. Michael R. Moore, representing the Texas Retailers Association; and Mayor Pro-Tem Bert Williams, representing the City Council of Fort Worth. Mr. Bill Allaway, representing the Texas Association of Taxpayers, testified with "qualified" support for the proposals. Mr. Bill Abington, representing Texas Mid-Continent Oil and Gas Association, testified in opposition to the proposals in their filed form. Ms. Rebecca Wolken of the Texas Department of Commerce was available as a resource witness. H.J.R. 9 and H.J.R. 14 were left as pending business on February 8. On April 12, the Committee voted to report S.J.R. 11 as substituted to the House with the recommendation that it do pass by a record vote of 8 ayes, 3 nays, with two absent.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

April 13, 1989

TO: Honorable James F. Hury, Jr., Chair
Committee on Ways and Means
House of Representatives
Austin, Texas

In Re: House Committee
Substitute for Senate
Joint Resolution No. 11

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on House Committee Substitute for Senate Joint Resolution No. 11 (proposing a constitutional amendment to authorize the exemption from ad valorem taxation certain personal property temporarily in the state for certain purposes) this office has determined the following:

The Texas Constitution states that all real and personal property in the State shall be taxed according to its value and provides that laws exempting property other than that mentioned therein are null and void.

The Tax Code provides that the State generally has the power to tax personal property if it is in the state for more than a temporary period, normally here but temporarily outside the State on January 1, or continually used in the State. The Code also provides an exception to this rule for goods, wares, ores other than oil, gas, and petroleum products, and merchandise that are in interstate commerce (and therefore exempt under federal law) or that are in the state for only a temporary period. The Code defines this temporary period to be no more than 175 days.

A number of local taxing jurisdictions regarded the statute as unconstitutional and appraised property, and levied and collected taxes on property covered by the statute. Taxpayers generally paid the taxes levied, but the matter finally was taken to court.

In a recent case (Dallas County Appraisal District v. L. D. Brinkman and Company, 701 S.W. 2d 20, Tex. App.--Dallas 1985, writ ref'd n.r.e.), the court declared this exception unconstitutional since the Texas Constitution does not expressly provide for any exemption. The court also ruled that the goods covered by the exception were not exempt under federal law since, in order to be exempt, they would have to be moving in interstate transit or stopped temporarily in the State for reasons unrelated to manufacturing, assembly, storage, and the other exempt processes listed in the Tax Code.

The resolution would amend the Texas Constitution to provide a self-enacting exemption for tangible personal property consisting of goods, wares, merchandise, and ores (other than oil, gas, and petroleum products) if the property is acquired in or imported into the state and is eventually destined out of state, regardless of the intention when the property began its journey into the State, if it remains in Texas for 175 days or less to be assembled, stored, manufactured, processed, or fabricated.

The proposed amendment would authorize the governing body of a county, school district, junior college district, or municipality to prevent the exemption of the tangible personal property which is the subject of the proposal by taking official action before April 1, 1990. If such an entity takes such action before January 1, 1990, the property is taxable for the 1990 tax year. If the entity takes action between January 1 and April 1, 1990, the property is not taxable for 1990 but becomes taxable in the 1991 tax year. If official action is not taken by April 1, 1990, the property becomes exempt automatically. A county, municipality, or school district may rescind a prior decision to tax the property. In such a case, the exemption would become effective in the year of the rescission and the property may not thereafter be taxed.

While the exemption takes effect January 1, 1990, a political subdivision may adopt the exemption for 1989 taxes. If it did so, the governing body must waive 1989 taxes already imposed on the property and refund 1989 taxes already

71FHCSSJR11

paid.

Local units currently receiving revenue from taxing "freeport" property would experience a reduction in tax revenues should the proposed amendment be adopted and the local governing body not act to prevent the exemption. The revenue could be replaced by a related increase in tax rates, thereby transferring the tax burden to other property owners. The amount of such revenue cannot be estimated because of lack of data.

It is difficult to estimate the dollar amount of revenue that would be lost to local governments that would fail to act within the time set in the proposal because the appraisal districts that have been putting the property on the tax rolls have not segregated "freeport" values from other inventory values.

The resolution would be submitted to voters on November 7, 1989. The cost of publication of the resolution to the State is estimated to be \$60,000.

No additional fiscal implication to the State is anticipated.

Criminal Justice Policy Impact Statement: No change in the sanctions applicable to adults convicted of felony crimes is anticipated.

Source: State Property Tax Board; Secretary of State;
LBB Staff: JO, JWH, AL, CKM

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

March 29, 1989

TO: Honorable James F. Hury, Jr., Chair
Committee on Ways and Means
House of Representatives
Austin, Texas

In Re: Senate Joint
Resolution No. 11,
as engrossed
By: McFarland, et al.

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on Senate Joint Resolution No. 11, as engrossed (proposing a constitutional amendment to authorize the exemption from ad valorem taxation certain personal property temporarily in the state for certain purposes) this office has determined the following:

The Texas Constitution states that all real and personal property in the State shall be taxed according to its value and provides that laws exempting property other than that mentioned therein are null and void.

The Tax Code provides that the State generally has the power to tax personal property if it is in the state for more than a temporary period, normally here but temporarily outside the State on January 1, or continually used in the State. The Code also provides an exception to this rule for goods, wares, ores other than oil, gas, and petroleum products, and merchandise that are in interstate commerce (and therefore exempt under federal law) or that are in the state for only a temporary period. The Code defines this temporary period to be no more than 175 days.

A number of local taxing jurisdictions regarded the statute as unconstitutional and appraised property, and levied and collected taxes on property covered by the statute. Taxpayers generally paid the taxes levied, but the matter finally was taken to court.

In a recent case (Dallas County Appraisal District v. L. D. Brinkman and Company, 701 S.W. 2d 20, Tex. App.--Dallas 1985, writ ref'd n.r.e.), the court declared this exception unconstitutional since the Texas Constitution does not expressly provide for any exemption. The court also ruled that the goods covered by the exception were not exempt under federal law since, in order to be exempt, they would have to be moving in interstate transit or stopped temporarily in the State for reasons unrelated to manufacturing, assembly, storage, and the other exempt processes listed in the Tax Code.

The resolution would amend the Texas Constitution to provide a self-enacting exemption for tangible personal property consisting of goods, wares, merchandise, and ores (other than oil, gas, and petroleum products) if the property is acquired in or imported into the state and is eventually destined out of state, regardless of the intention when the property began its journey into the State, if it remains in Texas for 175 days or less to be assembled, stored, manufactured, processed, or fabricated. The resolution also would provide a separate local option for oil, gas, and other petroleum products.

The proposed amendment would authorize the governing body of a county, school district, junior college district, or municipality to prevent the exemption of the tangible personal property which is the subject of the proposal by taking official action before April 1, 1990. If such an entity takes such action before January 1, 1990, the property is taxable for the 1990 tax year. If the entity takes action between January 1 and April 1, 1990, the property is not taxable for 1990 but becomes taxable in the 1991 tax year. If official action is not taken by April 1, 1990, the property becomes exempt automatically. A county, municipality, junior college district, or school district may rescind a prior decision to tax the property. In such a case, the exemption would become effective in the year of the rescission and the property may not thereafter be taxed.

While the exemption takes effect January 1, 1990, a political subdivision may adopt the exemption for 1989 taxes. If it did so, the governing body must

waive 1989 taxes already imposed on the property and refund 1989 taxes already paid.

Local units currently receiving revenue from taxing "freeport" property would experience a reduction in tax revenues should the proposed amendment be adopted and the local governing body not act to prevent the exemption. The revenue could be replaced by a related increase in tax rates, thereby transferring the tax burden to other property owners. The amount of such revenue cannot be estimated because of lack of data.

It is difficult to estimate the dollar amount of revenue that would be lost to local governments that would fail to act within the time set in the proposal because the appraisal districts that have been putting the property on the tax rolls have not segregated "freeport" values from other inventory values.

The resolution would be submitted to voters on November 7, 1989. The cost of publication of the resolution to the State is estimated to be \$60,000.

No additional fiscal implication to the State is anticipated.

Criminal Justice Policy Impact Statement: No change in the sanctions applicable to adults convicted of felony crimes is anticipated.

Source: State Property Tax Board; Secretary of State;
LBB Staff: JO, JWH, AL, LV

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

February 21, 1989

FEB 22 REC'D

TO: Honorable Kent A. Caperton, Chairman
Committee on Finance
Senate Chamber
Austin, Texas

In Re: Committee Substitute
for Senate Joint
Resolution No. 11

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on Committee Substitute for Senate Joint Resolution No. 11 (proposing a constitutional amendment to authorize the exemption from ad valorem taxation certain personal property temporarily in the state for certain purposes) this office has determined the following:

The Texas Constitution states that all real and personal property in the State shall be taxed according to its value and provides that laws exempting property other than that mentioned therein are null and void.

The Tax Code provides that the State generally has the power to tax personal property if it is in the state for more than a temporary period, normally here but temporarily outside the State on January 1, or continually used in the State. The Code also provides an exception to this rule for goods, wares, ores other than oil, gas, and petroleum products, and merchandise that are in interstate commerce (and therefore exempt under federal law) or that are in the state for only a temporary period. The Code defines this temporary period to be no more than 175 days.

A number of local taxing jurisdictions regarded the statute as unconstitutional and appraised property, and levied and collected taxes on property covered by the statute. Taxpayers generally paid the taxes levied, but the matter finally was taken to court.

In a recent case (Dallas County Appraisal District v. L. D. Brinkman and Company, 701 S.W. 2d 20, Tex. App.--Dallas 1985, writ ref'd n.r.e.), the court declared this exception unconstitutional since the Texas Constitution does not expressly provide for any exemption. The court also ruled that the goods covered by the exception were not exempt under federal law since, in order to be exempt, they would have to be moving in interstate transit or stopped temporarily in the State for reasons unrelated to manufacturing, assembly, storage, and the other exempt processes listed in the Tax Code.

The resolution would amend the Texas Constitution to provide a self-enacting exemption for tangible personal property consisting of goods, wares, merchandise, and ores (other than oil, gas, and petroleum products) if the property is acquired in or imported into the state and is eventually destined out of state, regardless of the intention when the property began its journey into the State, if it remains in Texas for 175 days or less to be assembled, stored, manufactured, processed, or fabricated. The resolution also would provide a separate local option for oil, gas, and other petroleum products.

The proposed amendment would authorize the governing body of a county, school district or municipality to prevent the exemption of the tangible personal property which is the subject of the proposal by taking official action before April 1, 1990. If such an entity takes such action before January 1, 1990, the property is taxable for the 1990 tax year. If the entity takes action between January 1 and April 1, 1990, the property is not taxable for 1990 but becomes taxable in the 1991 tax year. If official action is not taken by April 1, 1990, the property becomes exempt automatically. A county, municipality, or school district may rescind a prior decision to tax the property. In such a case, the exemption would become effective in the year of the rescission and the property may not thereafter be taxed.

While the exemption takes effect January 1, 1990, a political subdivision may adopt the exemption for 1989 taxes. If it did so, the governing body must waive 1989 taxes already imposed on the property and refund 1989 taxes already

71FCSSJR11

8

paid.

Local units currently receiving revenue from taxing "freeport" property would experience a reduction in tax revenues should the proposed amendment be adopted and the local governing body not act to prevent the exemption. The revenue could be replaced by a related increase in tax rates, thereby transferring the tax burden to other property owners. The amount of such revenue cannot be estimated because of lack of data.

It is difficult to estimate the dollar amount of revenue that would be lost to local governments that would fail to act within the time set in the proposal because the appraisal districts that have been putting the property on the tax rolls have not segregated "freeport" values from other inventory values.

The resolution would be submitted to voters on November 7, 1989. The cost of publication of the resolution to the State is estimated to be \$60,000.

No additional fiscal implication to the State is anticipated.

Source: State Property Tax Board; Secretary of State;
LBB Staff: JO, JWH, AL, CKM

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

February 8, 1989

TO: Honorable Kent A. Caperton, Chairman
Committee on Finance
Senate Chamber
Austin, Texas

In Re: Senate Joint
Resolution No. 11
By: McFarland

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on Senate Joint Resolution No. 11 (proposing a constitutional amendment to authorize the exemption from ad valorem taxation certain personal property temporarily in the state for certain purposes) this office has determined the following:

The Texas Constitution states that all real and personal property in the State shall be taxed according to its value and provides that laws exempting property other than that mentioned therein are null and void

The Tax Code provides that the State generally has the power to tax personal property if it is in the state for more than a temporary period, normally here but temporarily outside the State on January 1, or continually used in the State. The Code also provides an exception to this rule for goods, wares, ores other than oil, gas, and petroleum products, and merchandise that are in interstate commerce (and therefore exempt under federal law) or that are in the state for only a temporary period. The Code defines this temporary period to be no more than 175 days.

A number of local taxing jurisdictions regarded the statute as unconstitutional and appraised property, and levied and collected taxes on property covered by the statute. Taxpayers generally paid the taxes levied, but the matter finally was taken to court.

In a recent case (Dallas County Appraisal District v. L. D. Brinkman and Company, 701 S.W. 2d 20, Tex. App.--Dallas 1985, writ ref'd n.r.e.), the court declared this exception unconstitutional since the Texas Constitution does not expressly provide for any exemption. The court also ruled that the goods covered by the exception were not exempt under federal law since, in order to be exempt, they would have to be moving in interstate transit or stopped temporarily in the State for reasons unrelated to manufacturing, assembly, storage, and the other exempt processes listed in the Tax Code.

The resolution would amend the Texas Constitution to provide a self-enacting exemption for tangible personal property consisting of goods, wares, merchandise, and ores (other than oil, gas, and petroleum products) if the property originated and is eventually destined out of state, regardless of the intention when the property began its journey into the State, if it remains in Texas for 175 days or less to be assembled, stored, manufactured, processed, or fabricated.

The proposed amendment would authorize the governing body of a county, school district or municipality to prevent the exemption of the tangible personal property which is the subject of the proposal by taking official action before April 1, 1990. If such an entity takes such action before January 1, 1990, the property is taxable for the 1990 tax year. If the entity takes action between January 1 and April 1, 1990, the property is not taxable for 1990 but becomes taxable in the 1991 tax year. If official action is not taken by April 1, 1991, the property becomes exempt automatically. A county, municipality, or school district may rescind a prior decision to tax the property. In such a case, the exemption would become effective in the year of the rescission and the property may not thereafter be taxed.

While the exemption takes effect January 1, 1990, a political subdivision may adopt the exemption for 1989 taxes. If it did so, the governing body must waive 1989 taxes already imposed on the property and refund 1989 taxes already paid.

71FSJR11

10

Local units currently receiving revenue from taxing "freeport" property would experience a reduction in tax revenues should the proposed amendment be adopted and the local governing body not act to prevent the exemption. The revenue could be replaced by a related increase in tax rates, thereby shifting the tax burden to other property owners. The amount of such revenue cannot be estimated because of lack of data. Other jurisdictions which were allowing exemptions, would have potential revenue gain from the court's ruling, but these amounts of potential gain cannot be estimated with reasonable accuracy.

It is difficult to estimate the dollar amount of revenue that would be lost to local governments that would fail to act within the time set in the proposal because the appraisal districts that have been putting the property on the tax rolls have not segregated "freeport" values from other inventory values.

The resolution would be submitted to voters on November 7, 1989. The cost of publication of the resolution to the State is estimated to be \$60,000.

Source: State Property Tax Board; Secretary of State;
LBB Staff: JO, JWH, AL, AM, PA

ADOPTED

MAY 15 1989

Betty Murray
Chief Clerk
House of Representatives

By McFarland, Santiesteban, Johnson, Bivins

No.
^
SJR. 11

Substitute the following for SJR No. 11:

By Berlanga

CSSJR No. 11

A JOINT RESOLUTION

proposing a constitutional amendment to authorize the exemption from ad valorem taxation certain personal property temporarily in the state for certain purposes.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. That Article VIII, Section 1, of the Texas Constitution is amended to read as follows:

Sec. 1. (a) Taxation shall be equal and uniform.

(b) All real property and tangible personal property in this State, unless exempt as required or permitted by this Constitution, whether owned by natural persons or corporations, other than municipal, shall be taxed in proportion to its value, which shall be ascertained as may be provided by law.

(c) The Legislature may provide for the taxation of intangible property and may also impose occupation taxes, both upon natural persons and upon corporations, other than municipal, doing any business in this State. It may also tax incomes of both natural persons and corporations other than municipal, except that persons engaged in mechanical and agricultural pursuits shall never be required to pay an occupation tax.

(d) The Legislature by general law shall exempt from ad valorem taxation household goods not held or used for the production of income and personal effects not held or used for

1 the production of income. The Legislature by general law may
2 exempt from ad valorem taxation:

3 (1) all or part of the personal property homestead of
4 a family or single adult, "personal property homestead" meaning
5 that personal property exempt by law from forced sale for debt;
6 and

7 (2) subject to Subsection (e) of this section, all
8 other tangible personal property, except structures which are
9 personal property and are used or occupied as residential
10 dwellings and except property held or used for the production of
11 income.

12 (e) the governing body of a political subdivision may
13 provide for the taxation of all property exempt under a law
14 adopted under Subdivision (2) of Subsection (d) of this section
15 and not exempt from ad valorem taxation by any other law.

16 ~~(f)~~~~(h)~~ The occupation tax levied by any county, city or
17 town for any year on persons or corporations pursuing any
18 profession or business, shall not exceed one half of the tax
19 levied by the State for the same period on such profession or
20 business.

21 SECTION 2. Article VIII of the Texas Constitution is
22 amended by adding a Section 1-j to read as follows:

23 Sec. 1-j (a) To promote economic development in the state,
24 goods, wares, merchandise, other tangible personal property, and
25 ores, other than oil, natural gas, and other petroleum products,
26 are exempt from ad valorem taxation if:

27 (1) the property is acquired in or imported into this

1 State to be forwarded outside this State, whether or not the
2 intention to forward the property outside this State is formed,
3 or the destination to which the property is forwarded is
4 specified when the property is acquired in or imported into this
5 state;

6 (2) the property is detained in this State for
7 assembling, storing, manufacturing, processing or fabrication
8 purposes by the person who acquired or imported the property; and

9 (3) the property is transported outside of this state
10 not later than 175 days after the date the person acquired or
11 imported the property in this state.

12 (b) Tangible personal property exempted from taxation in
13 subsection (a) of this section is subject to the following:

14 (1) A county, common, or independent school district,
15 or junior college district, or municipality, including a home-rule
16 city, may tax such property otherwise exempt, if the governing body
17 of the county, common, or independent school district, or junior
18 college district, or municipality takes official action as provided
19 in this section and in the manner provided by law to provide for
20 the taxation of such property.

21 (2) Any official action to tax such exempt property
22 must be taken before April 1, 1990. If official action is taken to
23 tax such exempt property before January 1, 1990, such property is
24 taxable effective for the tax year 1990. However, if such official
25 action to tax such exempt property is taken prior to April 1, 1990,
26 but after January 1, 1990, the official action shall not become
27 effective to tax such property until the 1991 tax year.

1 (3) Any of the above named political subdivisions
2 shall have the authority to exempt from payment of taxation such
3 property located in such above named political subdivisions for
4 the taxing year 1989. If a governing body exempts the property
5 from 1989 taxes, the governing body shall waive 1989 taxes
6 already imposed and refund 1989 taxes already paid on such
7 property for that year.

8 (4) The governing body of a county, common or
9 independent school district, municipality that acts under (b)(2)
10 of this section to tax the property otherwise exempt by
11 subsection (a) of this section may subsequently exempt the
12 property from taxation by rescinding its action to tax the
13 property. The exemption applies to each tax year that begins
14 after the date the action is taken and applies to the tax year
15 in which the action is taken if the governing body so provides.
16 A governing body that rescinds its action to tax the property
17 may not take action to tax such property after the rescission.

18 SECTION 3. This proposed constitutional amendment shall be
19 submitted to the voters at an election to be held on November 7,
20 1989. The ballot shall be printed to provide for voting for or
21 against the proposition. "The constitutional amendment
22 promoting economic growth, job creation and fair tax treatment
23 for Texans who export goods to other states and nations by
24 restoring and allowing, on a local option basis, an ad valorem
25 tax exemption for certain personal property that is in Texas
26 only temporarily for the purpose of assembling, storing,
27 manufacturing, processing or fabricating.

CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

May 25, 1989

Date

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

ADOPTED
28 years 2 days
MAY 27 1989

Sir:

Robert Harris
Secretary of the Senate

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on SJR 11 have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Bob McFarland
Bob McFarland

Teel Bivins
Teel Bivins

O. H. (Ike) Harris
O. H. (Ike) Harris

Kenn Caperton
Kenn Caperton

Bob Glasgow
Bob Glasgow
On the part of the Senate

Hugo Bertram
Hugo Bertram

Chris Harris
Chris Harris

Jack Vowell
Jack Vowell

Robert Farley
Robert Farley

David Cain
David Cain

On the part of the House

Paper clip one of these forms to each of the following:
the original and two copies to the house of origin
three copies to the other house

MAY 26 1989

Read and filed 12:28 PM

CONFERENCE COMMITTEE REPORT

S.J.R. No. 11

SENATE
A JOINT RESOLUTION

1 proposing a constitutional amendment to authorize the
2 exemption from ad valorem taxation certain personal
3 property temporarily in the State for certain purposes.

4 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF
5 TEXAS:

6 SECTION 1. That Article VIII, Section 1, of the Texas
7 Constitution is amended to read as follows:

8 Sec. 1. (a) Taxation shall be equal and uniform.

9 (b) All real property and tangible personal property
10 in this State, unless exempt as required or permitted by
11 this Constitution, whether owned by natural persons or
12 corporations, other than municipal, shall be taxed in
13 proportion to its value, which shall be ascertained as may
14 be provided by law.

15 (c) The Legislature may provide for the taxation of
16 intangible property and may also impose occupation taxes,
17 both upon natural persons and upon corporations, other than
18 municipal, doing any business in this State. It may also
19 tax incomes of both natural persons and corporations other
20 than municipal, except that persons engaged in mechanical
21 and agricultural pursuits shall never be required to pay an
22 occupation tax.

23 (d) The Legislature by general law shall exempt from
24 ad valorem taxation household goods not held or used for
25 the production of income and personal effects not held or
26 used for the production of income. The Legislature by
27 general law may exempt from ad valorem taxation:

1 (1) all or part of the personal property
2 homestead of a family or single adult, "personal property
3 homestead" meaning that personal property exempt by law
4 from forced sale for debt; and

5 (2) subject to Subsection (e) of this section,
6 all other tangible personal property, except structures
7 which are personal property and are used or occupied as
8 residential dwellings and except property held or used for
9 the production of income.

10 (e) The governing body of a political subdivision
11 may provide for the taxation of all property exempt under a
12 law adopted under Subdivision (2) of Subsection (d) of this
13 section and not exempt from ad valorem taxation by any
14 other law.

15 (f) [~~h~~] The occupation tax levied by any county,
16 city or town for any year on persons ^{or} corporations
17 pursuing any profession or business, shall not exceed one
18 half of the tax levied by the State for the same period on
19 such profession or business.

20 SECTION 2. Article VIII of the Texas Constitution is
21 amended by adding a Section 1-j to read as follows:

22 Sec. 1-j. (a) To promote economic development in the
23 State, goods, wares, merchandise, other tangible personal
24 property, and ores, other than oil, natural gas, and other
25 petroleum products, are exempt from ad valorem taxation if:

26 (1) the property is acquired in or imported
27 into this State to be forwarded outside this State, whether
28 or not the intention to forward the property outside this
29 State is formed or the destination to which the property
30 is forwarded is specified when the property is acquired in
31 or imported into this State;

32 (2) the property is detained in this State for^{2/3}
33 assembling, storing, manufacturing, processing, or
34 fabrication^{ng} purposes by the person who acquired or imported
35 the property; and

1 (3) the property is transported outside ^{of} this
2 State not later than 175 days after the date the person
3 acquired or imported the property in this State.

4 (b) Tangible personal property exempted from taxation
5 in Subsection (a) of this section is subject to the
6 following:

7 (1) A county, common, or independent school
8 district, junior college district, or municipality,
9 including a home-rule city, may tax such property otherwise
10 exempt, if the governing body of the county, common, or
11 independent school district, junior college district, or
12 municipality takes official action as provided in this
13 section and in the manner provided by law to provide for
14 the taxation of such property.

15 (2) Any official action to tax such exempt
16 property must be taken before April 1, 1990. If official
17 action is taken to tax such exempt property before
18 January 1, 1990, such property is taxable effective for the
19 tax year 1990. However, if such official action to tax
20 such exempt property is taken prior to April 1, 1990, but
21 after January 1, 1990, the official action shall not become
22 effective to tax such property until the 1991 tax year.

23 (3) Any of the above-named political
24 subdivisions shall have the authority to exempt from
25 payment of taxation such property located in such above-
26 named political subdivisions for the taxing year 1989. If
27 a governing body exempts the property from 1989 taxes, the
28 governing body shall waive 1989 taxes already ^{3/}imposed and
29 refund 1989 taxes already paid on such property for that
30 year.

31 (4) The governing body of a county, common, or
32 independent school district, junior college district, or
33 municipality that acts under ^{Subdivision (2) of} Subsection (b) (2) of this
34 section to tax the property otherwise exempt by Subsection
35 (a) of this section may subsequently exempt the property

1 from taxation by rescinding its action to tax the property.
2 The exemption applies to each tax year that begins after
3 the date the action is taken and applies to the tax year in
4 which the action is taken if the governing body so
5 provides. A governing body that rescinds its action to tax
6 the property may not take action to tax such property after
7 the rescission.

8 (c) For purposes of this section:

9 (1) tangible personal property shall include
10 aircraft and aircraft parts;

11 (2) property imported into this State shall
12 include property brought into this State;

13 (3) property forwarded outside this State shall
14 include property transported outside this State, ^{or} to be
15 affixed to an aircraft to be transported outside this
16 State; and

17 (4) property detained in this State for
18 assembling, storing, manufacturing, processing, or
19 fabrication ^{or} purposes shall include property, aircraft, or
20 aircraft parts brought into this State or acquired in this
21 State and used by the person who acquired the property,
22 aircraft, or aircraft parts ^{who} ~~ing~~ or brought the ^{4/15} property,
23 aircraft, or aircraft parts into this State for the purpose
24 of repair or maintenance of aircraft operated by a
25 certificated air carrier.

26 SECTION 3. This proposed constitutional amendment
27 shall be submitted to the voters at an election to be held
28 on November 7, 1989. The ballot shall be printed to
29 provide for voting for or against the proposition: "The
30 constitutional amendment promoting economic growth, job
31 creation, and fair tax treatment for Texans who export goods
32 to other states and nations by restoring and allowing, on a
33 local option basis, an ad valorem tax exemption for certain
34 personal property that is in Texas only temporarily for the

1 purpose of assembling, storing, manufacturing, processing,
2 or fabricating."

Side-by-Side Comparison

SJR-11 - A CONSTITUTIONAL AMENDMENT TO AUTHORIZE THE EXEMPTION FROM AD VALOREM TAXATION CERTAIN CERTAIN PERSONAL PROPERTY

<u>Senate Version</u>	<u>House Version</u>	<u>Conference Committee</u>
Section 1. amends Article VIII, Sec. 1 of the Texas Constitution	Sec. 1 - Same as Senate version	Sec. 1 - Adopted Senate Version
Sec. 1.(a) Only a clarifying amendment to expressly state that property is not taxed if exempted in other sections of the Constitution.		
Sec. 1.(f) Renumbers (h) to (f) to conform. Eliminates vacant subsection.		
Section 2. Adds Sec. 1-j to Article VIII of the Texas Constitution.	Section 2. Same as Senate version	Sec. 2 - Adopted Senate version except as explained below.
Sec. 1-j To promote economic development goods, wares, merchandise, other tangible personal property and ores, other than oil, natural gas, and other petroleum products, are exempt from taxation if:		

Senate Version

House Version

Conference Committee

(1) Such property is acquired in
or imported into Texas.

(2) Detained for certain purposes; and

(3) Not detained for longer than 175 days.

A county, school district, junior college district,
or municipality could, on a local option basis, tax
such property if the required action is taken.

Section 3. Article VIII of the Texas
Constitution is amended by adding a new
section 1-k to provide the same tax treatment
and under the same terms as Sec. 1-j for
oil, natural gas and other petroleum products.

Section 3. House removed Section 3.

Sec. 3 - Adopted House version

Section 4. Provides for the
ballot proposition for the
election to held in November, 1989.

Sec. 4 - House version corrected
ballot language to conform
to adopted committee substitute.

Sec. 4 - Adopted House version

Not in Senate version.

Not in House version.

ADDITIONS

The Conference Committee report adds a new
Sec. 1-j(c) to provide that in Subsection (a):
(1) Tangible personal property shall include
aircraft and aircraft parts.
(2) Property imported into this state shall
include property brought into this state.

Senate Version

House Version

Conference Committee

(3) Property forwarded outside this state shall include property transported outside this state.

(4) Property detained in this state for assembling, storing, manufacturing, processing or fabrication purposes shall include property brought into this state or used by the person who acquired the property and detained such property in or brought the property in this state in the repair or maintenance of aircraft operated by a certificated carrier.

5484X

CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

May 25, 1989

Date

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on SJR 11 have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Bob McFarland
Bob McFarland

Geel Bivins
Geel Bivins

G. H. (Ike) Harris
G. H. (Ike) Harris

Kent Caperton
Kent Caperton

Bob Glass
On the part of the Senate

Hugo Berlanza
Hugo Berlanza

Chris Harris
Chris Harris

Jack Vowell
Jack Vowell

Robert Farley
Robert Farley

David Cain
David Cain

On the part of the House

ADOPTED

MAY 26 1989

Betty Ramsey
Chief Clerk
House of Representatives

by record
vote of
143 yeas 2 nays
2PNV

Paper clip one of these forms to each of the following:
the original and two copies to the house of origin
three copies to the other house

CONFERENCE COMMITTEE REPORT

S.J.R. No. 11

A JOINT RESOLUTION

1 proposing a constitutional amendment to authorize the
2 exemption from ad valorem taxation certain personal
3 property temporarily in the State for certain purposes.

4 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF
5 TEXAS:

6 SECTION 1. That Article VIII, Section 1, of the Texas
7 Constitution is amended to read as follows:

8 Sec. 1. (a) Taxation shall be equal and uniform.

9 (b) All real property and tangible personal property
10 in this State, unless exempt as required or permitted by
11 this Constitution, whether owned by natural persons or
12 corporations, other than municipal, shall be taxed in
13 proportion to its value, which shall be ascertained as may
14 be provided by law.

15 (c) The Legislature may provide for the taxation of
16 intangible property and may also impose occupation taxes,
17 both upon natural persons and upon corporations, other than
18 municipal, doing any business in this State. It may also
19 tax incomes of both natural persons and corporations other
20 than municipal, except that persons engaged in mechanical
21 and agricultural pursuits shall never be required to pay an
22 occupation tax.

23 (d) The Legislature by general law shall exempt from
24 ad valorem taxation household goods not held or used for
25 the production of income and personal effects not held or
26 used for the production of income. The Legislature by
27 general law may exempt from ad valorem taxation:

1 (1) all or part of the personal property
2 homestead of a family or single adult, "personal property
3 homestead" meaning that personal property exempt by law
4 from forced sale for debt; and

5 (2) subject to Subsection (e) of this section,
6 all other tangible personal property, except structures
7 which are personal property and are used or occupied as
8 residential dwellings and except property held or used for
9 the production of income.

10 (e) The governing body of a political subdivision
11 may provide for the taxation of all property exempt under a
12 law adopted under Subdivision (2) of Subsection (d) of this
13 section and not exempt from ad valorem taxation by any
14 other law.

15 (f) ~~[(4)]~~ The occupation tax levied by any county,
16 city or town for any year on persons or corporations
17 pursuing any profession or business, shall not exceed one
18 half of the tax levied by the State for the same period on
19 such profession or business.

20 SECTION 2. Article VIII of the Texas Constitution is
21 amended by adding a Section 1-j to read as follows:

22 Sec. 1-j. (a) To promote economic development in the
23 State, goods, wares, merchandise, other tangible personal
24 property, and ores, other than oil, natural gas, and other
25 petroleum products, are exempt from ad valorem taxation if:

26 (1) the property is acquired in or imported
27 into this State to be forwarded outside this State, whether
28 or not the intention to forward the property outside this
29 State is formed, or the destination to which the property
30 is forwarded is specified, when the property is acquired in
31 or imported into this State;

32 (2) the property is detained in this State for
33 assembling, storing, manufacturing, processing, or
34 fabrication purposes by the person who acquired or imported
35 the property; and

1 (3) the property is transported outside this
2 State not later than 175 days after the date the person
3 acquired or imported the property in this State.

4 (b) Tangible personal property exempted from taxation
5 in Subsection (a) of this section is subject to the
6 following:

7 (1) A county, common or independent school
8 district, junior college district, or municipality,
9 including a home-rule city, may tax such property otherwise
10 exempt, if the governing body of the county, common or
11 independent school district, junior college district, or
12 municipality takes official action as provided in this
13 section and in the manner provided by law to provide for
14 the taxation of such property.

15 (2) Any official action to tax such exempt
16 property must be taken before April 1, 1990. If official
17 action is taken to tax such exempt property before
18 January 1, 1990, such property is taxable effective for the
19 tax year 1990. However, if such official action to tax
20 such exempt property is taken prior to April 1, 1990, but
21 after January 1, 1990, the official action shall not become
22 effective to tax such property until the 1991 tax year.

23 (3) Any of the above-named political
24 subdivisions shall have the authority to exempt from
25 payment of taxation such property located in such above-
26 named political subdivisions for the taxing year 1989. If
27 a governing body exempts the property from 1989 taxes, the
28 governing body shall waive 1989 taxes already imposed and
29 refund 1989 taxes already paid on such property for that
30 year.

31 (4) The governing body of a county, common or
32 independent school district, junior college district, or
33 municipality that acts under Subsection (b)(2) of this
34 section to tax the property otherwise exempt by Subsection
35 (a) of this section may subsequently exempt the property

1 from taxation by rescinding its action to tax the property.
2 The exemption applies to each tax year that begins after
3 the date the action is taken and applies to the tax year in
4 which the action is taken if the governing body so
5 provides. A governing body that rescinds its action to tax
6 the property may not take action to tax such property after
7 the rescission.

8 (c) For purposes of this section:

9 (1) tangible personal property shall include
10 aircraft and aircraft parts;

11 (2) property imported into this State shall
12 include property brought into this State;

13 (3) property forwarded outside this State shall
14 include property transported outside this State, or to be
15 affixed to an aircraft to be transported outside this
16 State; and

17 (4) property detained in this State for
18 assembling, storing, manufacturing, processing, or
19 fabrication purposes shall include property, aircraft or
20 aircraft parts brought into this State or acquired in this
21 State and used by the person who acquired the property,
22 aircraft or aircraft parts in, or brought the property,
23 aircraft or aircraft parts into this State for the purpose
24 of repair or maintenance of aircraft operated by a
25 certificated air carrier.

26 SECTION 3. This proposed constitutional amendment
27 shall be submitted to the voters at an election to be held
28 on November 7, 1989. The ballot shall be printed to
29 provide for voting for or against the proposition: "The
30 constitutional amendment promoting economic growth, job
31 creation and fair tax treatment for Texans who export goods
32 to other states and nations by restoring and allowing, on a
33 local option basis, an ad valorem tax exemption for certain
34 personal property that is in Texas only temporarily for the

- 1 purpose of assembling, storing, manufacturing, processing
- 2 or fabricating."

Side-by-Side Comparison

SJR-11 - A CONSTITUTIONAL AMENDMENT TO AUTHORIZE THE EXEMPTION FROM AD VALOREM TAXATION CERTAIN CERTAIN PERSONAL PROPERTY

<u>Senate Version</u>	<u>House Version</u>	<u>Conference Committee</u>
Section 1. amends Article VIII, Sec. 1 of the Texas Constitution	Sec. 1 - Same as Senate version	Sec. 1 - Adopted Senate Version
Sec. 1.(a) Only a clarifying amendment to expressly state that property is not taxed if exempted in other sections of the Constitution.		
Sec. 1.(f) Renumbers (h) to (f) to conform. Eliminates vacant subsection.		
Section 2. Adds Sec. 1-j to Article VIII of the Texas Constitution.	Section 2. Same as Senate version	Sec. 2 - Adopted Senate version except as explained below.
Sec. 1-j To promote economic development goods, wares, merchandise, other tangible personal property and ores, other than oil, natural gas, and other petroleum products, are exempt from taxation if:		

Senate Version

House Version

Conference Committee

(1) Such property is acquired in
or imported into Texas.

(2) Detained for certain purposes; and

(3) Not detained for longer than 175 days.

A county, school district, junior college district,
or municipality could, on a local option basis, tax
such property if the required action is taken.

Section 3. Article VIII of the Texas
Constitution is amended by adding a new
section 1-k to provide the same tax treatment
and under the same terms as Sec. 1-j for
oil, natural gas and other petroleum products.

Section 3. House removed Section 3.

Sec. 3 - Adopted House version

Section 4. Provides for the
ballot proposition for the
election to held in November, 1989.

Sec. 4 - House version corrected
ballot language to conform
to adopted committee substitute.

Sec. 4 - Adopted House version

Not in Senate version.

Not in House version.

ADDITIONS

The Conference Committee report adds a new
Sec. 1-j(c) to provide that in Subsection (a):
(1) Tangible personal property shall include
aircraft and aircraft parts.
(2) Property imported into this state shall
include property brought into this state.

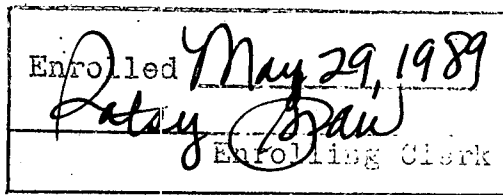
Senate Version

House Version

Conference Committee

(3) Property forwarded outside this state shall include property transported outside this state.

(4) Property detained in this state for assembling, storing, manufacturing, processing or fabrication purposes shall include property brought into this state or used by the person who acquired the property and detained such property in or brought the property in this state in the repair or maintenance of aircraft operated by a certificated carrier.



S.J.R. No. 11

SENATE JOINT RESOLUTION

proposing a constitutional amendment to authorize the exemption from ad valorem taxation certain personal property temporarily in the state for certain purposes.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. That Article VIII, Section 1, of the Texas Constitution is amended to read as follows:

Sec. 1. (a) Taxation shall be equal and uniform.

(b) All real property and tangible personal property in this State, unless exempt as required or permitted by this Constitution, whether owned by natural persons or corporations, other than municipal, shall be taxed in proportion to its value, which shall be ascertained as may be provided by law.

(c) The Legislature may provide for the taxation of intangible property and may also impose occupation taxes, both upon natural persons and upon corporations, other than municipal, doing any business in this State. It may also tax incomes of both natural persons and corporations other than municipal, except that persons engaged in mechanical and agricultural pursuits shall never be required to pay an occupation tax.

(d) The Legislature by general law shall exempt from ad valorem taxation household goods not held or used for the production of income and personal effects not held or used for the production of income. The Legislature by general law may exempt from ad valorem taxation:

(1) all or part of the personal property homestead of

1 a family or single adult, "personal property homestead" meaning
2 that personal property exempt by law from forced sale for debt; and

3 (2) subject to Subsection (e) of this section, all
4 other tangible personal property, except structures which are
5 personal property and are used or occupied as residential dwellings
6 and except property held or used for the production of income.

7 (e) The governing body of a political subdivision may
8 provide for the taxation of all property exempt under a law adopted
9 under Subdivision (2) of Subsection (d) of this section and not
10 exempt from ad valorem taxation by any other law.

11 (f) [~~h~~] The occupation tax levied by any county, city or
12 town for any year on persons or corporations pursuing any
13 profession or business, shall not exceed one half of the tax levied
14 by the State for the same period on such profession or business.

15 SECTION 2. Article VIII of the Texas Constitution is amended
16 by adding Section 1-j to read as follows:

17 Sec. 1-j. (a) To promote economic development in the State,
18 goods, wares, merchandise, other tangible personal property, and
19 ores, other than oil, natural gas, and other petroleum products,
20 are exempt from ad valorem taxation if:

21 (1) the property is acquired in or imported into this
22 State to be forwarded outside this State, whether or not the
23 intention to forward the property outside this State is formed or
24 the destination to which the property is forwarded is specified
25 when the property is acquired in or imported into this State;

26 (2) the property is detained in this State for

11/11/88 3:22

S.J.R. No. 11

1 assembling, storing, manufacturing, processing, or fabricating
2 purposes by the person who acquired or imported the property; and

3 (3) the property is transported outside of this State
4 not later than 175 days after the date the person acquired or
5 imported the property in this State.

6 (b) Tangible personal property exempted from taxation in
7 Subsection (a) of this section is subject to the following:

8 (1) A county, common, or independent school district,
9 junior college district, or municipality, including a home-rule
10 city, may tax such property otherwise exempt, if the governing body
11 of the county, common, or independent school district, junior
12 college district, or municipality takes official action as provided
13 in this section and in the manner provided by law to provide for
14 the taxation of such property.

15 (2) Any official action to tax such exempt property
16 must be taken before April 1, 1990. If official action is taken to
17 tax such exempt property before January 1, 1990, such property is
18 taxable effective for the tax year 1990. However, if such official
19 action to tax such exempt property is taken prior to April 1, 1990,
20 but after January 1, 1990, the official action shall not become
21 effective to tax such property until the 1991 tax year.

22 (3) Any of the above-named political subdivisions
23 shall have the authority to exempt from payment of taxation such
24 property located in such above-named political subdivisions for the
25 taxing year 1989. If a governing body exempts the property from
26 1989 taxes, the governing body shall waive 1989 taxes already

1 imposed and refund 1989 taxes already paid on such property for
2 that year.

3 (4) The governing body of a county, common, or
4 independent school district, junior college district, or
5 municipality that acts under Subdivision (2) of Subsection (b) of
6 this section to tax the property otherwise exempt by Subsection (a)
7 of this section may subsequently exempt the property from taxation
8 by rescinding its action to tax the property. The exemption
9 applies to each tax year that begins after the date the action is
10 taken and applies to the tax year in which the action is taken if
11 the governing body so provides. A governing body that rescinds its
12 action to tax the property may not take action to tax such property
13 after the rescission.

14 (c) For purposes of this section:

15 (1) tangible personal property shall include aircraft
16 and aircraft parts;

17 (2) property imported into this State shall include
18 property brought into this State;

19 (3) property forwarded outside this State shall
20 include property transported outside this State or to be affixed to
21 an aircraft to be transported outside this State; and

22 (4) property detained in this State for assembling,
23 storing, manufacturing, processing, or fabricating purposes shall
24 include property, aircraft, or aircraft parts brought into this
25 State or acquired in this State and used by the person who acquired
26 the property, aircraft, or aircraft parts in or who brought the

1 property, aircraft, or aircraft parts into this State for the
2 purpose of repair or maintenance of aircraft operated by a
3 certificated air carrier.

4 SECTION 3. This proposed constitutional amendment shall be
5 submitted to the voters at an election to be held on November 7,
6 1989. The ballot shall be printed to provide for voting for or
7 against the proposition: "The constitutional amendment promoting
8 economic growth, job creation, and fair tax treatment for Texans
9 who export goods to other states and nations by restoring and
10 allowing, on a local option basis, an ad valorem tax exemption for
11 certain personal property that is in Texas only temporarily for the
12 purpose of assembling, storing, manufacturing, processing, or
13 fabricating."

President of the Senate

Speaker of the House

I hereby certify that S.J.R. No. 11 was adopted by the Senate on March 16, 1989, by the following vote: Yeas 27, Nays 2; May 25, 1989, Senate refused to concur in House amendment and requested appointment of Conference Committee; May 26, 1989, House granted request of the Senate; May 27, 1989, Senate adopted Conference Committee Report by the following vote: Yeas 28, Nays 2.

Secretary of the Senate

I hereby certify that S.J.R. No. 11 was adopted by the House, with amendment, on May 15, 1989, by the following vote: Yeas 140, Nays 0, one present not voting; May 26, 1989, House granted request of the Senate for appointment of Conference Committee; May 29, 1989, House adopted Conference Committee Report by the following vote: Yeas 143, Nays 2, two present not voting.

Chief Clerk of the House

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

April 13, 1989

TO: Honorable James F. Hury, Jr., Chair
Committee on Ways and Means
House of Representatives
Austin, Texas

In Re: House Committee
Substitute for Senate
Joint Resolution No. 11

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on House Committee Substitute for Senate Joint Resolution No. 11 (proposing a constitutional amendment to authorize the exemption from ad valorem taxation certain personal property temporarily in the state for certain purposes) this office has determined the following:

The Texas Constitution states that all real and personal property in the State shall be taxed according to its value and provides that laws exempting property other than that mentioned therein are null and void.

The Tax Code provides that the State generally has the power to tax personal property if it is in the state for more than a temporary period, normally here but temporarily outside the State on January 1, or continually used in the State. The Code also provides an exception to this rule for goods, wares, ores other than oil, gas, and petroleum products, and merchandise that are in interstate commerce (and therefore exempt under federal law) or that are in the state for only a temporary period. The Code defines this temporary period to be no more than 175 days.

A number of local taxing jurisdictions regarded the statute as unconstitutional and appraised property, and levied and collected taxes on property covered by the statute. Taxpayers generally paid the taxes levied, but the matter finally was taken to court.

In a recent case (Dallas County Appraisal District v. L. D. Brinkman and Company, 701 S.W. 2d 20, Tex. App.--Dallas 1985, writ ref'd n.r.e.), the court declared this exception unconstitutional since the Texas Constitution does not expressly provide for any exemption. The court also ruled that the goods covered by the exception were not exempt under federal law since, in order to be exempt, they would have to be moving in interstate transit or stopped temporarily in the State for reasons unrelated to manufacturing, assembly, storage, and the other exempt processes listed in the Tax Code.

The resolution would amend the Texas Constitution to provide a self-enacting exemption for tangible personal property consisting of goods, wares, merchandise, and ores (other than oil, gas, and petroleum products) if the property is acquired in or imported into the state and is eventually destined out of state, regardless of the intention when the property began its journey into the State, if it remains in Texas for 175 days or less to be assembled, stored, manufactured, processed, or fabricated.

The proposed amendment would authorize the governing body of a county, school district, junior college district, or municipality to prevent the exemption of the tangible personal property which is the subject of the proposal by taking official action before April 1, 1990. If such an entity takes such action before January 1, 1990, the property is taxable for the 1990 tax year. If the entity takes action between January 1 and April 1, 1990, the property is not taxable for 1990 but becomes taxable in the 1991 tax year. If official action is not taken by April 1, 1990, the property becomes exempt automatically. A county, municipality, or school district may rescind a prior decision to tax the property. In such a case, the exemption would become effective in the year of the rescission and the property may not thereafter be taxed.

While the exemption takes effect January 1, 1990, a political subdivision may adopt the exemption for 1989 taxes. If it did so, the governing body must waive 1989 taxes already imposed on the property and refund 1989 taxes already

paid.

Local units currently receiving revenue from taxing "freeport" property would experience a reduction in tax revenues should the proposed amendment be adopted and the local governing body not act to prevent the exemption. The revenue could be replaced by a related increase in tax rates, thereby transferring the tax burden to other property owners. The amount of such revenue cannot be estimated because of lack of data.

It is difficult to estimate the dollar amount of revenue that would be lost to local governments that would fail to act within the time set in the proposal because the appraisal districts that have been putting the property on the tax rolls have not segregated "freeport" values from other inventory values.

The resolution would be submitted to voters on November 7, 1989. The cost of publication of the resolution to the State is estimated to be \$60,000.

No additional fiscal implication to the State is anticipated.

Criminal Justice Policy Impact Statement: No change in the sanctions applicable to adults convicted of felony crimes is anticipated.

Source: State Property Tax Board; Secretary of State;
LBB Staff: JO, JWH, AL, CKM

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

March 29, 1989

TO: Honorable James F. Hury, Jr., Chair
Committee on Ways and Means
House of Representatives
Austin, Texas

In Re: Senate Joint
Resolution No. 11,
as engrossed
By: McFarland, et. al.

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on Senate Joint Resolution No. 11, as engrossed (proposing a constitutional amendment to authorize the exemption from ad valorem taxation certain personal property temporarily in the state for certain purposes) this office has determined the following:

The Texas Constitution states that all real and personal property in the State shall be taxed according to its value and provides that laws exempting property other than that mentioned therein are null and void.

The Tax Code provides that the State generally has the power to tax personal property if it is in the state for more than a temporary period, normally here but temporarily outside the State on January 1, or continually used in the State. The Code also provides an exception to this rule for goods, wares, ores other than oil, gas, and petroleum products, and merchandise that are in interstate commerce (and therefore exempt under federal law) or that are in the state for only a temporary period. The Code defines this temporary period to be no more than 175 days.

A number of local taxing jurisdictions regarded the statute as unconstitutional and appraised property, and levied and collected taxes on property covered by the statute. Taxpayers generally paid the taxes levied, but the matter finally was taken to court.

In a recent case (Dallas County Appraisal District v. L. D. Brinkman and Company, 701 S.W. 2d 20, Tex. App.--Dallas 1985, writ ref'd n.r.e.), the court declared this exception unconstitutional since the Texas Constitution does not expressly provide for any exemption. The court also ruled that the goods covered by the exception were not exempt under federal law since, in order to be exempt, they would have to be moving in interstate transit or stopped temporarily in the State for reasons unrelated to manufacturing, assembly, storage, and the other exempt processes listed in the Tax Code.

The resolution would amend the Texas Constitution to provide a self-enacting exemption for tangible personal property consisting of goods, wares, merchandise, and ores (other than oil, gas, and petroleum products) if the property is acquired in or imported into the state and is eventually destined out of state, regardless of the intention when the property began its journey into the State, if it remains in Texas for 175 days or less to be assembled, stored, manufactured, processed, or fabricated. The resolution also would provide a separate local option for oil, gas, and other petroleum products.

The proposed amendment would authorize the governing body of a county, school district, junior college district, or municipality to prevent the exemption of the tangible personal property which is the subject of the proposal by taking official action before April 1, 1990. If such an entity takes such action before January 1, 1990, the property is taxable for the 1990 tax year. If the entity takes action between January 1 and April 1, 1990, the property is not taxable for 1990 but becomes taxable in the 1991 tax year. If official action is not taken by April 1, 1990, the property becomes exempt automatically. A county, municipality, junior college district, or school district may rescind a prior decision to tax the property. In such a case, the exemption would become effective in the year of the rescission and the property may not thereafter be taxed.

While the exemption takes effect January 1, 1990, a political subdivision may adopt the exemption for 1989 taxes. If it did so, the governing body must

waive 1989 taxes already imposed on the property and refund 1989 taxes already paid.

Local units currently receiving revenue from taxing "freeport" property would experience a reduction in tax revenues should the proposed amendment be adopted and the local governing body not act to prevent the exemption. The revenue could be replaced by a related increase in tax rates, thereby transferring the tax burden to other property owners. The amount of such revenue cannot be estimated because of lack of data.

It is difficult to estimate the dollar amount of revenue that would be lost to local governments that would fail to act within the time set in the proposal because the appraisal districts that have been putting the property on the tax rolls have not segregated "freeport" values from other inventory values.

The resolution would be submitted to voters on November 7, 1989. The cost of publication of the resolution to the State is estimated to be \$60,000.

No additional fiscal implication to the State is anticipated.

Criminal Justice Policy Impact Statement: No change in the sanctions applicable to adults convicted of felony crimes is anticipated.

Source: State Property Tax Board; Secretary of State;
LBB Staff: JO, JWH, AL, LV

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

February 21, 1989

FEB 22 REC'D

TO: Honorable Kent A. Caperton, Chairman
Committee on Finance
Senate Chamber
Austin, Texas

In Re: Committee Substitute
for Senate Joint
Resolution No. 11

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on Committee Substitute for Senate Joint Resolution No. 11 (proposing a constitutional amendment to authorize the exemption from ad valorem taxation certain personal property temporarily in the state for certain purposes) this office has determined the following:

The Texas Constitution states that all real and personal property in the State shall be taxed according to its value and provides that laws exempting property other than that mentioned therein are null and void.

The Tax Code provides that the State generally has the power to tax personal property if it is in the state for more than a temporary period, normally here but temporarily outside the State on January 1, or continually used in the State. The Code also provides an exception to this rule for goods, wares, ores other than oil, gas, and petroleum products, and merchandise that are in interstate commerce (and therefore exempt under federal law) or that are in the state for only a temporary period. The Code defines this temporary period to be no more than 175 days.

A number of local taxing jurisdictions regarded the statute as unconstitutional and appraised property, and levied and collected taxes on property covered by the statute. Taxpayers generally paid the taxes levied, but the matter finally was taken to court.

In a recent case (Dallas County Appraisal District v. L. D. Brinkman and Company, 701 S.W. 2d 20, Tex. App.--Dallas 1985, writ ref'd n.r.e.), the court declared this exception unconstitutional since the Texas Constitution does not expressly provide for any exemption. The court also ruled that the goods covered by the exception were not exempt under federal law since, in order to be exempt, they would have to be moving in interstate transit or stopped temporarily in the State for reasons unrelated to manufacturing, assembly, storage, and the other exempt processes listed in the Tax Code.

The resolution would amend the Texas Constitution to provide a self-enacting exemption for tangible personal property consisting of goods, wares, merchandise, and ores (other than oil, gas, and petroleum products) if the property is acquired in or imported into the state and is eventually destined out of state, regardless of the intention when the property began its journey into the State, if it remains in Texas for 175 days or less to be assembled, stored, manufactured, processed, or fabricated. The resolution also would provide a separate local option for oil, gas, and other petroleum products.

The proposed amendment would authorize the governing body of a county, school district or municipality to prevent the exemption of the tangible personal property which is the subject of the proposal by taking official action before April 1, 1990. If such an entity takes such action before January 1, 1990, the property is taxable for the 1990 tax year. If the entity takes action between January 1 and April 1, 1990, the property is not taxable for 1990 but becomes taxable in the 1991 tax year. If official action is not taken by April 1, 1990, the property becomes exempt automatically. A county, municipality, or school district may rescind a prior decision to tax the property. In such a case, the exemption would become effective in the year of the rescission and the property may not thereafter be taxed.

While the exemption takes effect January 1, 1990, a political subdivision may adopt the exemption for 1989 taxes. If it did so, the governing body must waive 1989 taxes already imposed on the property and refund 1989 taxes already

paid.

Local units currently receiving revenue from taxing "freeport" property would experience a reduction in tax revenues should the proposed amendment be adopted and the local governing body not act to prevent the exemption. The revenue could be replaced by a related increase in tax rates, thereby transferring the tax burden to other property owners. The amount of such revenue cannot be estimated because of lack of data.

It is difficult to estimate the dollar amount of revenue that would be lost to local governments that would fail to act within the time set in the proposal because the appraisal districts that have been putting the property on the tax rolls have not segregated "freeport" values from other inventory values.

The resolution would be submitted to voters on November 7, 1989. The cost of publication of the resolution to the State is estimated to be \$60,000.

No additional fiscal implication to the State is anticipated.

Source: State Property Tax Board; Secretary of State;
LBB Staff: JO, JWH, AL, CKM

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

February 8, 1989

TO: Honorable Kent A. Caperton, Chairman
Committee on Finance
Senate Chamber
Austin, Texas

In Re: Senate Joint
Resolution No. 11
By: McFarland

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on Senate Joint Resolution No. 11 (proposing a constitutional amendment to authorize the exemption from ad valorem taxation certain personal property temporarily in the state for certain purposes) this office has determined the following:

The Texas Constitution states that all real and personal property in the State shall be taxed according to its value and provides that laws exempting property other than that mentioned therein are null and void

The Tax Code provides that the State generally has the power to tax personal property if it is in the state for more than a temporary period, normally here but temporarily outside the State on January 1, or continually used in the State. The Code also provides an exception to this rule for goods, wares, ores other than oil, gas, and petroleum products, and merchandise that are in interstate commerce (and therefore exempt under federal law) or that are in the state for only a temporary period. The Code defines this temporary period to be no more than 175 days.

A number of local taxing jurisdictions regarded the statute as unconstitutional and appraised property, and levied and collected taxes on property covered by the statute. Taxpayers generally paid the taxes levied, but the matter finally was taken to court.

In a recent case (Dallas County Appraisal District v. L. D. Brinkman and Company, 701 S.W. 2d 20, Tex. App.--Dallas 1985, writ ref'd n.r.e.), the court declared this exception unconstitutional since the Texas Constitution does not expressly provide for any exemption. The court also ruled that the goods covered by the exception were not exempt under federal law since, in order to be exempt, they would have to be moving in interstate transit or stopped temporarily in the State for reasons unrelated to manufacturing, assembly, storage, and the other exempt processes listed in the Tax Code.

The resolution would amend the Texas Constitution to provide a self-enacting exemption for tangible personal property consisting of goods, wares, merchandise, and ores (other than oil, gas, and petroleum products) if the property originated and is eventually destined out of state, regardless of the intention when the property began its journey into the State, if it remains in Texas for 175 days or less to be assembled, stored, manufactured, processed, or fabricated.

The proposed amendment would authorize the governing body of a county, school district or municipality to prevent the exemption of the tangible personal property which is the subject of the proposal by taking official action before April 1, 1990. If such an entity takes such action before January 1, 1990, the property is taxable for the 1990 tax year. If the entity takes action between January 1 and April 1, 1990, the property is not taxable for 1990 but becomes taxable in the 1991 tax year. If official action is not taken by April 1, 1991, the property becomes exempt automatically. A county, municipality, or school district may rescind a prior decision to tax the property. In such a case, the exemption would become effective in the year of the rescission and the property may not thereafter be taxed.

While the exemption takes effect January 1, 1990, a political subdivision may adopt the exemption for 1989 taxes. If it did so, the governing body must waive 1989 taxes already imposed on the property and refund 1989 taxes already paid.

Local units currently receiving revenue from taxing "freeport" property would experience a reduction in tax revenues should the proposed amendment be adopted and the local governing body not act to prevent the exemption. The revenue could be replaced by a related increase in tax rates, thereby shifting the tax burden to other property owners. The amount of such revenue cannot be estimated because of lack of data. Other jurisdictions which were allowing exemptions, would have potential revenue gain from the court's ruling, but these amounts of potential gain cannot be estimated with reasonable accuracy.

It is difficult to estimate the dollar amount of revenue that would be lost to local governments that would fail to act within the time set in the proposal because the appraisal districts that have been putting the property on the tax rolls have not segregated "freeport" values from other inventory values.

The resolution would be submitted to voters on November 7, 1989. The cost of publication of the resolution to the State is estimated to be \$60,000.

Source: State Property Tax Board; Secretary of State;
LBB Staff: JO, JWH, AL, AM, PA

Joe Klenz

S.J.R.
~~S.B.~~ No. 11 (1)

Speaker of the House,

President of the Senate ^{S.J.R.} Speaker of the House ^{was adopted by}
I hereby certify that ~~S.B.~~ No. 11 (1) passed the Senate on
March 16 (2), 1987, by the following vote:
Yeas 27 (3), Nays 2 (4); May 25 (5), 1987,
Senate refused to concur in House amendments and requested
appointment of Conference Committee;
May 26 (6), 1987, House granted request of the
Senate; May 27 (7), 1987, Senate adopted
Conference Committee Report by the following vote: Yeas 28 (8),
Nays 2 (9).

Secretary of the Senate

I hereby certify that ^{S.J.R.}~~S.D.~~ No. 11 (1) ^{was adopted by}~~passed~~ the House,
amendments ¹ on May 15 (2), 1987, by the

following vote: Yeas 140 (3, Nays 0 (4);
May 26 (5), 1987, House granted request of the
 Senate for appointment of Conference Committee;
May 29 (6), 1987, House adopted Conference
 Committee Report by the following vote: Yeas 143 (7),
 Nays 2 (8), two present not voting.

, one present
not voting

Chief Clerk of the House

~~Approved:~~

Date

Governor

S. J. R. No. 11

By McFarland

proposing a constitutional amendment to authorize the exemption from ad valorem taxation certain personal property temporarily in the state for certain purposes.

JAN 10 1989 Filed with the Secretary of the Senate
JAN 11 1989 Read and referred to Committee on FINANCE
FEB 16 1989 Reported favorably
FEB 16 1989 Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.
MAR 16 1989 Senate and Constitutional Rules to permit consideration suspended by: unanimous consent 27 yeas, 2 nays
MAR 16 1989 Read second time, amended, and ordered engrossed by: unanimous consent a viva voce vote
MAR 16 1989 Caption ordered amended to conform to the body of the bill.
MAR 18 1989 Senate and Constitutional 3 Day Rule suspended by a vote of 27 yeas, 2 nays.
MAR 18 1989 Read third time, _____, and passed by 27 yeas, 2 nays.

Betty King
SECRETARY OF THE SENATE

OTHER ACTION:

MAY 11 1989

Motion to postpone further consideration of STR No. 11 until Mon May 15 at 2pm prevailed by a non-record vote.

March 16 1989
3-20-89
Daisy Spaw
Engrossing Clerk

MAR 20 1989 Received from the Senate
MAR 28 1989 Read first time and referred to Committee on Ways & Means
APR 12 1989 Reported favorably subst amended, sent to Printer 10:15pm
APR 17 1989 Printed and Distributed 8:27am APR 14 1989
APR 17 1989 Sent to Committee on Calendars 4:10pm
MAY 15 1989 Read second time as subst. (amended) and finally adopted failed adoption by Record Vote of 140 yeas, 0 nays, 1 present not voting.
MAY 15 1989 Read third time (amended) and finally adopted failed adoption by a Record Vote of _____ yeas, _____ nays, _____ present not voting.
MAY 15 1989 Caption ordered amended to conform to body of resolution
MAY 16 1989 Returned to Senate.

Betty Murray
CHIEF CLERK OF THE HOUSE

MAY 18 1989 Returned from House without amendment.
MAY 18 1989 Returned from House with 1 amendments.
Concurred in House amendments by a viva voce vote _____ yeas, _____ nays.

MAY 25 1989 Refused to concur in House amendments and requested the appointment of a Conference Committee to adjust the differences:

Senate conferees instructed:

MAY 25 1989 Senate conferees appointed: McFarland, Chairman; Harris,
Caputo, Glasgow and Brown

5-26 House granted Senate request. House conferees appointed: Berlanga, Chairman;
Harris, Tarrant, Vassell, Earley & Cain.

MAY 28 1989 Conference Committee Report read and filed with the Secretary of the Senate.

MAY 29 1989 Conference Committee Report adopted on the part of the House by: _____

{ a viva voce vote
143 yeas, 2 nays 2PNV

MAY 27 1989 Conference Committee Report adopted on the part of the Senate by: _____

{ a viva voce vote
28 yeas, 2 nays

OTHER ACTION:

_____ Recommended to Conference Committee

_____ Conferees discharged

_____ Conference Committee Report failed of adoption by: _____

{ a viva voce vote
_____ yeas, _____ nays

83 APR 17 AM 8:27

HOUSE REPRESENTATIVES